

Gary M. Hoffman (*Pro Hac Vice*)  
 Kenneth W. Brothers (*Pro Hac Vice*)  
 DICKSTEIN SHAPIRO LLP  
 1825 Eye Street, NW  
 Washington, DC 20006-5403  
 Telephone: (202) 420-2200  
 Facsimile: (202) 420-2201

Edward A. Meilman (*Pro Hac Vice*)  
 DICKSTEIN SHAPIRO LLP  
 1177 Avenue of the Americas  
 New York, NY 10036-2714  
 Telephone: (212) 227-6500  
 Facsimile: (212) 227-6501

Jeffrey B. Demain, State Bar No. 126715  
 Jonathan Weissglass, State Bar No. 185008  
 ALTSHULER, BERZON, NUSSBAUM, RUBIN & DEMAINE  
 177 Post Street, Suite 300  
 San Francisco, CA 94108  
 Telephone: (415) 421-7151  
 Facsimile: (415) 362-8064

Attorneys for  
 RICOH COMPANY, LTD.

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

SYNOPSISYS, INC.,	)	
	)	CASE NO. C-03-2289-MJJ (EMC)
Plaintiff,	)	
	)	CASE NO. C-03-4669-MJJ (EMC)
v.	)	

RICOH COMPANY, LTD.,	)	
	)	
Defendant.	)	

RICOH COMPANY, LTD.,	)	<b>DECLARATION OF KENNETH W. BROTHERS IN SUPPORT OF RICOH'S EX PARTE MOTION TO EXPEDITE RICOH'S MOTION TO QUASH DEFENDANTS' UNTIMELY AND OVERBROAD DISCOVERY REQUESTS AND SUBPOENAS</b>
	)	
Plaintiff,	)	
	)	
v.	)	
AEROFLEX INCORPORATED, et al.,	)	
	)	
Defendants	)	

1 Kenneth W. Brothers declares as follows:

2 1. My name is Kenneth W. Brothers, an attorney with the law firm of Dickstein Shapiro  
3 LLP, counsel for Ricoh Company Limited. I am over the age of 21 and am competent to make this  
4 declaration. Based on my personal knowledge and information, I hereby declare to all the facts in this  
5 declaration.

6 2. On August 14, 2006, defendants served three subpoenas on the University of Michigan,  
7 Yale University, and the Massachusetts Institute of Technology requesting documents relating to Dr.  
8 Papaefthymiou. Defendants' counsel also sent me a letter with additional discovery requests relating to  
9 Dr. Papaefthymiou.

10 3. Upon receipt of the discovery request and subpoenas, I requested a meet and confer.  
11 Defendants' counsel responded with a refusal to meet and confer until after the return date.

12 4. Judge Chen had previously issued specific procedures prior to presenting discovery  
13 issues, and also had endorsed informal joint letters. On August 15, I telephoned Judge Chen's clerk with  
14 a procedural question of how to proceed – whether by joint letter or by formal ex parte motion – given  
15 the Court's prior guidance. Judge Chen had also had his clerk facilitate and participate in meet and  
16 confers between counsel. Judge Chen's clerk asked me to get defendants' counsel on the phone, which I  
17 did. Judge Chen's clerk advised defendants' counsel that that Magistrate Judge Chen would be  
18 unavailable between August 17 and 27, and would be unable to hear an ex parte motion or merits motion  
19 until he returned. Judge Chen's clerk suggested that the parties agree to extend the return date of their  
20 subpoenas until after Judge Chen returned. I agreed to this proposal on Ricoh's behalf, but defendants'  
21 counsel refused to so agree. Judge Chen's clerk advised counsel for the parties that, in the absence of  
22 such an agreement, Ricoh would need to file a formal motion to quash and an ex parte motion to shorten  
23 time, and that it likely would be forwarded to Judge Jenkins.

24 5. After the conference call with Judge Chen's clerk, defendants' counsel advised me that  
25 defendants continued to refuse to extend the return date of the subpoenas, and that defendants insisted  
26 that the matter be presented in a motion to quash and an ex parte motion to expedite.

27 6. Ricoh believes that defendants, having repeatedly failed to delay the trial through their  
28 motion practice, are similarly attempting to delay the trial through the current requests.

7. Attached hereto as Exhibit 1 is a true and correct copy of an August 14, 2006, letter from Denise De Mory to Kenneth Brothers.

8. Attached hereto as Exhibit 2 is a true and correct copy of an August 14, 2006, subpoena to the University of Michigan.

9. Attached hereto as Exhibit 3 is a true and correct copy of an August 14, 2006, subpoena to Yale University.

10. Attached hereto as Exhibit 4 is a true and correct copy of an August 14, 2006, subpoena to the Massachusetts Institute of Technology.

11. Attached hereto as Exhibit 5 is a true and correct copy of an August 14, 2006, email exchange between Kenneth Brothers and Ethan Andelman, *et al.*

Dated: August 16, 2006

RICOH COMPANY, LTD.

By: /s/ Kenneth W. Brothers

Jeffrey B. Demain, State Bar No. 126715  
Jonathan Weissglass, State Bar No. 185008  
ALTSHULER, BERZON, NUSSBAUM,  
RUBIN & DEMAINE  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421-7151  
Facsimile: (415) 362-8064

Gary M. Hoffman (*Pro Hac Vice*)  
Kenneth W. Brothers (*Pro Hac Vice*)  
DICKSTEIN SHAPIRO LLP  
1825 Eye Street, NW  
Washington, DC 20006-1526  
Telephone: (202) 420-2200  
Facsimile: (202) 420-2201

Edward A. Meilman (*Pro Hac Vice*)  
DICKSTEIN SHAPIRO LLP  
1177 Avenue of the Americas  
New York, NY 10036-2714  
Telephone: (212) 277-6500  
Facsimile: (212) 277-6501

Attorneys for  
RICOH COMPANY, LTD.



**HOWREY**  
LLP525 Market Street  
Suite 3600  
San Francisco, CA 94105-2708  
www.howrey.com**Denise M. De Mory**  
Partner

T 415.848.4983

F 415.848.4999

demoryd@howrey.com

File 06816.0060.000000

August 14, 2006

**VIA PDF**Kenneth W. Brothers, Esq.  
Dickstein Shapiro LLP  
1825 Eye Street NW  
Washington, DC 20006-5403**Re:   *Synopsys v. Ricoh Company, Ltd.,*  
      Case No. C03-2289 MJJ (EMC)  
      *Ricoh Company, Ltd. v. Aeroflex, Inc., et al.,*  
      Case No. C03-4669 MJJ (EMC)**

Dear Mr. Brothers:

I write to request additional discovery related to Ricoh's expert Dr. Marios Papaefthymiou. Dr. Papaefthymiou has taught many computer and electrical engineering-related classes at Massachusetts Institute of Technology, Yale University, and the University of Michigan. We request production of documents and things related to Dr. Papaefthymiou's teaching of classes and research activities at those institutions.

In particular, we request all course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for all courses that Dr. Papaefthymiou has taught at the university level. For example, Dr. Papaefthymiou's curriculum vitae states that he has authored course digests for "Computer Systems" and "Computer-Aided Design of Integrated Circuits" classes that he taught at Yale and an "Advanced Algorithms" class that he taught at Massachusetts Institute of Technology. Dr. Papaefthymiou also created an instructional RISC microprocessor implemented in Verilog for the "Computer Systems" class, which we request be produced. Additionally, we request all invention disclosures submitted to the University of Michigan Technology Transfer Office by Dr. Papaefthymiou and all theses and technical reports prepared by Dr. Papaefthymiou while he was a student at Massachusetts Institute of Technology.

Additionally, although it appears that Dr. Papaefthymiou generally has his lecture notes posted on his University of Michigan webpage, the links appear to have been disabled. For example, the webpage contains links for EECS 370 Introduction to Computer Organization, EECS 478 Logic Circuit Synthesis and Optimization, and EECS 598 Computer-Aided Design of Embedded Systems that do not function properly. Please provide these course materials forthwith considering that they are unavailable via Dr. Papaefthymiou's webpage.

Kenneth W. Brothers, Esq.

August 14, 2006

Page 2

Our request is not limited solely to the above examples, however, and encompasses all materials concerning Dr. Papaefthymiou's teaching of computer and electrical engineering-related classes. Such materials are relevant for understanding and assessing the bases of Dr. Papaefthymiou's opinions, and we are entitled to their production as a result.

Please procure from Dr. Papaefthymiou all materials responsive to this request, and produce them as soon as possible.

Sincerely,

*Denise M. De Mory*  
Denise M. De Mory



1 Teresa M. Corbin (SBN 132360)  
Denise M. De Mory (SBN 168076)  
2 Ethan B. Andelman (SBN 209101)  
Jaclyn C. Fink (SBN 217913)  
3 HOWREY LLP  
525 Market Street, Suite 3600  
4 San Francisco, California 94105  
Telephone: (415) 848-4900  
5 Facsimile: (415) 848-4999

6 Attorneys for Plaintiff SYNOPSYS, INC.  
and for Defendants AEROFLEX INCORPORATED,  
7 AMI SEMICONDUCTOR, INC., MATROX  
ELECTRONIC SYSTEMS, LTD., MATROX  
8 GRAPHICS, INC., MATROX INTERNATIONAL  
CORP., MATROX TECH, INC., and  
9 AEROFLEX COLORADO SPRINGS, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 RICOH COMPANY, LTD.,

14 Plaintiff,

15 vs.

16 AEROFLEX INCORPORATED, AMI  
SEMICONDUCTOR, INC., MATROX  
17 ELECTRONIC SYSTEMS LTD., MATROX  
GRAPHICS INC., MATROX INTERNATIONAL  
18 CORP., MATROX TECH, INC., AND  
AEROFLEX COLORADO SPRINGS, INC.

19 Defendants.

20 SYNOPSYS, INC.,

21 Plaintiff,

22 vs.

23 RICOH COMPANY, LTD.,

24 Defendant.

Case No. C03-04669 MJJ (EMC)

Case No. C03-02289 MJJ (EMC)

**NOTICE OF SUBPOENA TO THE  
UNIVERSITY OF MICHIGAN**



1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:


2 YOU ARE HEREBY NOTIFIED that pursuant to Federal Rule of Civil Procedure 45, Plaintiff  
3 Synopsys, Inc. has served the University of Michigan c/o Donica Thomas Varner, Assistant General  
4 Counsel, the attached subpoena for production of documents.

5 The University is required to produce documents in its custody, possession or control specified in  
6 Attachment A to the subpoena by 10:00 a.m. CST on Friday, August 18, 2006 at American Reprographics  
7 Systems, 660 Woodward Avenue, Suite 610, Detroit, Michigan, 48226, Telephone: (313) 965-5090.

8 Dated: August 14, 2006

HOWREY LLP

9  
10 By: \_\_\_\_\_

  
Matthew F. Greinert  
Attorneys for Plaintiff SYNOPSYS  
Defendants AEROFLEX  
INCORPORATED, AMI  
SEMICONDUCTOR, INC., MATROX  
ELECTRONIC SYSTEMS, LTD.,  
MATROX GRAPHICS, INC., MATROX  
INTERNATIONAL CORP., MATROX  
TECH, INC., and AEROFLEX  
COLORADO SPRINGS, INC.

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.:  
 COUNTY OF SAN FRANCISCO )

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 525 Market Street, Suite 3600, San Francisco, California 94105.

On August 14, 2006 I served on the interested parties in said action the within:

**NOTICE OF SUBPOENA TO THE UNIVERSITY OF MICHIGAN**

by causing said document to be sent by Electronic Mail on August 14, 2006 to the email addresses indicated for the parties listed below and by placing a true copy thereof in a sealed envelope(s) addressed as stated below and causing such envelope(s) to be delivered as follows:

Gary M. Hoffman, Esq.  
HoffmanG@dsmo.com  
 Dickstein Shapiro Morin & Oshinsky, LLP  
 2101 L Street, N.W.  
 Washington, DC 20037-1526

Jeffrey Demain, Esq.  
jdemain@altshulerberzon.com  
 Altshuler, Berzon, Nussbaum, Rubin & Demain  
 177 Post Street, Suite 300  
 San Francisco, CA 94108

Facsimile No.: (202) 887-0689

Facsimile No.: (415) 362-8064

Edward A. Meilman, Esq.  
MeilmanE@dsmo.com  
 Dickstein Shapiro Morin & Oshinsky, LLP  
 1177 Avenue of the Americas  
 New York, NY 10036-2714

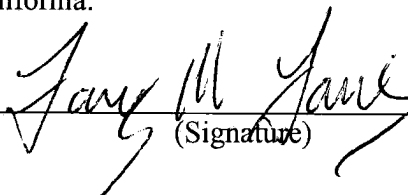
Facsimile No.: (212) 896-5471

☒ (OVERNIGHT DELIVERY) on August 14, 2006 by depositing in a box or other facility regularly maintained by Federal Express, an express service carrier, or delivering to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed as stated above, with fees for overnight delivery paid or provided for and causing such envelope(s) to be delivered by said express service carrier on.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on August 14, 2006, at San Francisco, California.

James M. James  
 (Type or print name)

  
 (Signature)

Issued by the

# UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

RICOH COMPANY, LTD

V.

AEROFLEX, INCORPORATED, et al.

## SUBPOENA IN A CIVIL CASE

Case Number: <sup>1</sup> C03-04669 MJJ (EMC)  
(Pending in the US District Court for  
the Northern District of California)

TO: DONICA THOMAS VARNER, Esq., Assitant General Counsel,  
on behalf of UNIVERSITY OF MICHIGAN  
4010 Fleming Building  
503 Thompson Street, Ann Arbor, MI 48109

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------


☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):  
SEE ATTACHMENT A

PLACE American Reprographics Systems, attn: Jim Higgins 660 Woodward Avenue, Suite 610, Detroit, Michigan 48226, (313) 965-5090	DATE AND TIME August 18, 2006, 10:00 am CST
--	--

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant 	DATE August 14, 2006
---	-------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Matthew F. Greinert, HOWREY LLP, 525 Market Street, Suite 3600, San Francisco, CA 94105; Telephone: (415) 848-4900

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**PROOF OF SERVICE**

DATE	PLACE
SERVED:	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

**Rule 45, Federal Rules of Civil Procedure, Parts C & D:****(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## **ATTACHMENT A**

Pursuant to Federal Rule of Civil Procedure 45 and as directed in the subpoena attached hereto, you are to produce all documents and things within the scope of the following definitions and descriptions that are within your possession, custody, or control. A Protective Order has been entered in this case by the United States District Court for the Northern District of California and is attached as Attachment B. Included in the Protective Order are provisions for the protection of confidential information produced by a third party. With respect to documents and things withheld under a claim of privilege, you are required under Rule 45 to describe the nature of the documents and things withheld in a manner sufficient to enable the demanding party to contest the claims.

### **DEFINITIONS**

1. The terms “you,” and “your,” mean, without limitation, the University of Michigan, including without limitation all of its subsidiaries, parents, departments and affiliates, and all past or present directors, officers, agents, representatives, employees, students, consultants, attorneys, entities acting in joint-venture or partnership relationships with the University of Michigan and others acting on behalf of the University of Michigan.
2. As used herein, the word “document” means the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether in final or draft, including but not limited to all materials that constitute “writings,” “recordings,” “photographs,” “source code” or “executable code” within the broadest meaning of Rule 1001 of the Federal Rules of Evidence and all materials that constitute “documents” within the broadest meaning of Rule 34 of the Federal Rules of Civil Procedure. The word “document” includes, without limitation, printed matter, electronic mail, materials stored on computer hard drives, diskettes, tapes, any other computer media, and any other information stored magnetically, optically or in any electronic medium and/or form.

3. As used herein, “person” means any individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity.

4. As used herein, “communication” includes, without limitation, communications by whatever means transmitted (i.e., whether oral, written, electronic or other methods used), as well as any note, memorandum or other record thereof.

5. The terms “regarding, referring or relating to” and “concerning” mean reflecting, concerning, containing, pertaining, referring, relating to, indicating, showing, describing, evidencing, discussing, mentioning, embodying or computing.

6. Whenever the singular is used, it shall also be taken to include the plural, and vice versa. Whenever the conjunctive is used, it shall also be taken to include the disjunctive, and vice versa.

### **INSTRUCTIONS**

The following instructions apply to each of the requests for documents set forth herein:

1. Please produce entire documents, including, but not limited to, attachments, enclosures, cover letters, memoranda, and appendices.

2. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these requests for documents shall be deemed continuous up to and following the trial of this proceeding such that any documents or things requested herein which is either discovered by you or comes within your possession, custody or control subsequent to your initial responses hereto but prior to the final conclusion of this case should be produced in a supplemental response to these Document Requests immediately upon its discovery or receipt by you or your counsel.

3. If any document is withheld under a claim of privilege, in order that the Court and the parties may determine the validity of the claim of privilege, please provide a privilege log identifying each document withheld, including

- a. The type of document;
- b. The approximate date, and manner of recording, creating or otherwise preparing the document;
- c. The subject matter of the document;

- d. The name and organizational position of the person(s) who produced the document,
- e. The name and organizational position of the person(s) who received a copy of the document, or to whom the document was disclosed; and
- f. The claimed grounds on which the document is being withheld and facts sufficient to show the basis for each claim of privilege.

4. If you object to any part of a request for documents and refuse to produce documents responsive to that part, state your objection and respond to the remaining portion of that request. If you object to the scope or time period of a request for documents, state your objection and respond to the request for documents for the scope or time period you believe is appropriate.

5. Please produce all documents in the order in which they are kept in the ordinary course of business, and in their original file folders, binders, covers or containers, or facsimile thereof.

6. Any document bearing any changes, including, but not limited to, markings, handwritten notation, or other differences, that are not a part of the original text, or any reproduction thereof, is to be considered a separate document for purposes of responding to the following document requests. English translations of partial translations of foreign language documents should also be considered separate documents.

7. If a requested document is in a language other than English, please produce both the original and any existing English translation thereof.

8. If any of the following requests for documents cannot be responded to in full after exercising due diligence to secure the requested documents, please so state and respond to the extent possible, specifying your inability to respond to the remainder and stating whatever information you have regarding, referring or relating to the unanswered portions. If your response is qualified in any particular manner, set forth the details of such qualification.



9. Please produce hard copies of electronic records or produce computerized information in an intelligible format with a description of the system from which it was derived sufficient to permit rendering the materials intelligible.

### **DOCUMENT REQUESTS**

#### **Request No.1:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Introduction to Computer Organization" (EECS 370) in the Electrical Engineering and Computer Science Department at the University of Michigan, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

#### **Request No. 2:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Logic Circuit Synthesis and Optimization" (EECS 478) in the Electrical Engineering and Computer Science Department at the University of Michigan, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

#### **Request No. 3:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Computer-Aided Design of Embedded Systems" in the Electrical Engineering and Computer Science Department at the University of Michigan, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

#### **Request No. 4:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of any course within the Electrical Engineering and Computer Science Department, or any other Department, at the University of Michigan, including but not limited to, course syllabi, handouts,



outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for any such course.

**Request No. 5:**

All documents regarding, referring or relating to any invention disclosures submitted to the University of Michigan Technology Transfer Office by Dr. Marios Papaefthymiou while being employed by the University of Michigan, including but not limited to, Invention Disclosure Nos. 1496, 1759, 2270, 2299, 2300, and 2452.

# ATTACHMENT B

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7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
11

12 SYNOPSYS, INC.,  
13

14 Plaintiff,

15 vs.

16 RICOH COMPANY, LTD.,  
17

Defendant.

CASE NO. C03-02289-MJJ (EMC)

STIPULATED PROTECTIVE ORDER

18  
19 1. All Confidential Information produced or exchanged in the course of this litigation shall  
20 be used solely for the purpose of preparation and trial of this litigation and for no other purpose  
21 whatsoever, and shall not be disclosed to any person except in accordance with the terms hereof.

22 2. "Confidential Information," as used herein, means any information of any type, kind or  
23 character that is designated as "Confidential" by any of the supplying or receiving parties, whether it be  
24 a document, information contained in a document, information revealed during a deposition,  
25 information revealed in an interrogatory answer or otherwise. In designating information as  
26 "Confidential," a party will make such designation only as to that information that it in good faith  
27 believes contains "Confidential Information."

28 3. (a) "Confidential Information" includes, but is not limited to, (i) proprietary technical

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information and specifications, (ii) trade secrets (iii) confidential know-how, and (iv) proprietary  
3  
business and financial information and any other non-public information, the disclosure of which is  
4  
likely to have the effect of causing significant competitive harm to the disclosing party or party from  
which the information was obtained. Nothing in this paragraph shall be construed to limit the  
description of "Confidential Information" set forth in paragraph 2.

8 (b) Nothing shall be regarded as "Confidential Information" if it is information that:  
9 (i) is in the public domain at the time of disclosure, as evidenced by a written document;  
10 (ii) becomes part of the public domain through no fault of the other party, as evidenced  
11 by a written document;  
12 (iii) was in the receiving party's rightful and lawful possession at the time of disclosure,  
13 as evidenced by a written document; or  
14 (iv) is lawfully received by the receiving party from a third party at a later date without  
15 restriction as to disclosure, provided such third party has the right to make the disclosure to the  
16 receiving party.  
17

18 4. "Qualified Persons," as used herein means:  
19 (a) To the Court and its officers and staff, including court reporters;  
20 (b) Outside attorneys of record for the parties in this litigation and employees of such  
attorneys to whom it is necessary that the material be shown for purposes of this litigation;  
22 (c) Outside experts, consultants, advisors or investigators (collectively referred to  
23 hereafter as "experts") who have signed an undertaking pursuant to paragraph 5 but only after  
24 compliance with the provisions of paragraph 5 below;  
25 (d) To non-party support services including, but not limited to, court reporters, outside  
26 copy services, document imaging and database services, design services who have signed confidentiality  
27 agreements, jury consultants who have signed confidentiality agreements, mock jurors who have signed  
28 confidentiality agreements, and language translators who have signed confidentiality agreements

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2  
(including support staff) as may be reasonably necessary in connection with the preparation or conduct  
3  
of this action;  
4

5 (e) Anyone to whom the parties consent in writing; and

6 (f) If this Court so elects, any other person may be designated as a Qualified Person by  
order of this Court, after notice and opportunity to be heard to all parties.

8 5. Prior to the disclosure of any "Confidential Information" to any expert under Paragraph  
4(c), counsel for the Party seeking to make the disclosure shall: (i) deliver a copy of this Protective  
Order as  
9 entered to such person, explain its terms to such person, and secure the signature of such  
10 person on a written undertaking in the form attached hereto as Exhibit A, and (ii) transmit by facsimile  
11 and mail to counsel for the other Parties a copy of the signed Exhibit A, accompanied by a curriculum  
12 vitae, at least ten (10) calendar days before any "Confidential Information" designated under this  
13 Protective Order is to be disclosed to the signator. The curriculum vitae should identify the general  
14 area(s) of expertise of the expert, provide a brief job history, specify all employment, expert or  
15 consulting engagements by the expert within the past five (5) years, and state all present or prior  
16 relationships between the expert and any entity directly or indirectly involved in this litigation or  
17 providing an indemnity to any such entity, its subsidiaries or its affiliates. Any Party may object to the  
18 proposed disclosure to an expert within the ten (10) calendar day period following the transmittal of  
19 Exhibit A and the curriculum vitae, by stating specifically in writing the reasons why the Party believes  
20 such expert should not receive designated "Confidential Information." If during that ten (10) calendar  
21 day period a Party makes such a written objection, there shall be no disclosure of "Confidential  
22 Information" to the expert absent mutual agreement of the Parties, waiver of the objection as stated  
23 below, or further order of the Court. After a Party objects to the proposed disclosure to an expert, the  
24 objecting Party shall move, by noticed motion or by ex parte application, for an order that disclosure not  
25 be made to such expert within five (5) business days following the date that the objection is made, or the  
26 Party's objection shall be deemed waived and disclosure may be made to the expert. The burden shall  
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3 be on the objecting Party to establish why the disclosure should not be made. Each Party shall maintain  
4 a file of all such signed copies of Exhibit A. However, it shall not be necessary for administrative,  
5 secretarial or clerical personnel working for such Qualified Person to sign a written undertaking.

6 6. (a) Documents produced in this action may be designated by any party or parties as  
7 "Confidential" by marking each page of the document(s) with the designation "Confidential."

8 (b) In lieu of marking the original of a document, if the original is not produced, the  
9 designating party may mark the copies that are produced or exchanged. Originals shall be preserved for  
10 inspection.

11 (c) If the document is not in paper form, the producing person or entity shall use other  
12 such reasonable means as necessary to identify clearly the document or information as "Confidential."

13 7. Discovery responses or other litigation materials may be designated by any party or  
14 parties as "Confidential" by marking each page of the response with the designation "Confidential."

15 8. The designation of information disclosed during a deposition as "Confidential" shall be  
16 made either by a statement on the record at the deposition or within twenty (20) calendar days after  
17 receipt by counsel of a copy of the deposition transcript. Such designation will be applied to only those  
18 portions of the deposition transcript that include a specific question and response or series of questions  
19 and responses containing "Confidential Information." The deposition transcript shall be printed in  
20 consecutive pages (whether or not some pages are designated as "Confidential") with a marking on the  
21 cover of the deposition transcript indicating the "Confidential" designation contained therein. Unless  
22 previously designated otherwise, all deposition transcripts shall be treated as "Confidential" in their  
23 entirety prior to the end of the twenty (20) calendar day period following receipt by counsel of a copy of  
24 the deposition transcript.  
25

26 9. "Confidential Information" shall not be disclosed or made available by the receiving  
27 party to persons other than Qualified Persons except that nothing herein is intended to prevent  
28 individuals who are in-house counsel or a member of the professional legal department of the Parties

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3 from having access to pleadings, briefs and exhibits or declarations filed with the Court and expert  
4 reports, including exhibits that are designated as "Confidential."

5 10. (a) Documents to be inspected shall be treated as "Confidential" although such  
documents need not be marked as "Confidential" prior to inspection. At the time of copying for the  
receiving parties, any documents containing "Confidential Information" shall be stamped prominently  
"Confidential" by the producing party.

9 (b) Nothing herein shall prevent disclosure beyond the terms of this Order if each party  
10 designating the information as "Confidential" consents to such disclosure or if the Court, after notice to  
11 all affected parties, orders such disclosures. Nothing herein shall prevent any counsel of record from  
12 utilizing "Confidential Information" in the examination or cross-examination of any person who is  
13 indicated on the document as being an author, source or recipient of the "Confidential Information,"  
14 irrespective of which party produced such information. Nothing herein shall prevent any counsel of  
15 record from utilizing "Confidential Information" in the examination or cross-examination of any person  
16 who is a current or former officer, director or employee of the party so designating the information as  
17 "Confidential" or of the party that produced the information or of a related entity.  
18

19 11. If a party inadvertently discloses any document or thing containing information that it  
deems confidential without designating it as "Confidential," the disclosing party shall promptly upon  
discovery of such inadvertent disclosure inform the receiving party in writing, and the receiving party  
and all 20 Qualified Persons possessing such information shall thereafter treat the information as  
21 "Confidential" under this Order. To the extent such information may have been disclosed to persons  
22 other than 23 Qualified Persons described in this document, the receiving party shall make every  
24 reasonable effort to retrieve the information promptly from such persons and to avoid any further  
25 disclosure to and by such persons.  
26

27 12. A party shall not be obligated to challenge the propriety of a designation as  
28 "Confidential" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto.

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Nor will the failure to object be construed as an admission that any particular "Confidential  
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Information" contains or reflects currently valuable trade secrets or confidential commercial  
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information. In the event that any party to this litigation disagrees at any stage of these proceedings  
with the designation by the designating party of any information as "Confidential," or the designation of  
any person as a Qualified Person, the parties shall first try to resolve such dispute in good faith on an  
informal basis, such as production of redacted copies. If the parties are unsuccessful in informally  
resolving any disputes regarding the designation of any document or information as "Confidential," the  
Court shall resolve all such disputes. It shall be the burden of the party making any designation to  
establish that the information so designated is "Confidential" within the meaning of this Protective  
Order. The "Confidential Information" that is the subject of the dispute shall be treated as originally  
designated pending resolution of the dispute.

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14 13. The parties may, by written stipulation filed and approved by the Court, amend this  
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Order, and any party may seek an order of this Court modifying this Protective Order. The parties agree  
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to meet and confer prior to seeking to modify this Protective Order. In addition, the Court may modify  
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this Protective Order in the interest of justice or otherwise at the Court's discretion.

18  
19 14. In the event a party wishes to use any "Confidential Information" in any affidavits,  
briefs, memoranda of law, or other papers filed with the Court in this litigation, such "Confidential  
Information" used therein shall be filed under seal with the Court. In addition to placing documents in a  
sealed envelope with instructions that the document is filed pursuant to the Stipulated Protective Order  
and that the envelope is not to be opened absent further order of the Court, the envelope should be  
labeled to identify the title of the case, the case number, and the title of the document.

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21 15. The Clerk of this Court is directed to maintain under seal all documents and transcripts of  
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deposition testimony and answers to interrogatories, admissions and other pleadings filed under seal  
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with the Court in this litigation that have been designated, in whole or in part, as "Confidential" by a  
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party to this action.



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3 16. If a Party intends to offer into evidence or otherwise disclose in open court any  
4 "Confidential Information" designated by another person or entity, counsel for such Party shall notify  
5 the designating person or entity that the Party intends to disclose "Confidential Information" in open  
6 court prior to the disclosure, so that the designating person or entity may confer with the Court  
7 concerning appropriate procedures for protecting its "Confidential Information."

8 17. In the event any person or party that has possession, custody, or control of any  
9 information designated as "Confidential" pursuant to the terms of this Protective Order receives a  
10 subpoena or other process or order to produce such information, such person or party shall notify by  
11 mail within five (5) business days of the Party's receipt of the request, the counsel for the party or  
12 persons claiming confidential treatment of the documents sought by such subpoenas or other process or  
13 order, shall furnish such counsel with a copy of said subpoena or other process or order, and shall  
14 cooperate with respect to any procedure sought to be pursued by the party whose interests may be  
15 affected. The party asserting the "Confidential" treatment shall have the burden of defending against  
16 such subpoena, process or order. The person or party receiving the subpoena or process or order shall  
17 be entitled to comply with it except: (a) to the extent the party asserting the "Confidential" treatment is  
18 successful in obtaining an order modifying or quashing it; and (b) in complying with the process or  
19 order shall, at a minimum, seek to obtain "Confidential" treatment of the "Confidential Information"  
20 before producing it in the other proceeding or action.

22 18. If the discovery process calls for the production of information that a Party or Non-Party  
23 does not wish to produce because the Party or Non-Party believes its disclosure would breach an  
24 agreement with another person or entity to maintain such information in confidence, the disclosing Party  
25 or Non-Party promptly shall give written notice to the other person or entity that its information is  
26 subject to discovery in this litigation, and shall provide such person or entity with a copy of this  
27 Protective Order. When such written notice is given to the person or entity, the disclosing Party or Non-  
28 Party will advise the potential receiving Party that such notice has been given. The person or entity

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3 whose information may be subject to discovery shall have ten (10) business days from receipt of the  
4 written notice in which to seek relief from the Court, if the person or entity so desires. If the ten (10)  
5 business days elapse without the person or entity seeking relief from the Court, the requested  
6 information shall be produced in accordance with the terms of this Protective Order.

7 19. In the event that additional persons or entities become Parties, none of such Parties'  
8 counsel, experts or consultants retained to assist said counsel, shall have access to "Confidential  
9 Information" produced by or obtained from any other producing person or entity until said Party has  
10 executed and filed with the Court its agreement to be fully bound by this Protective Order.

11 20. This Protective Order shall apply to the parties and any non-party from whom discovery  
12 may be sought and who desires protection for the discovery sought. Thus, any non-party requested or  
13 required to produce or disclose information in this proceeding, through subpoena or otherwise, may  
14 designate such information pursuant to the terms of this Protective Order.

15 21. (a) Nothing herein requires disclosure of information, documents or things which the  
16 disclosing entity contends is protected from disclosure by the attorney-client privilege or the work-  
17 product exception. Nothing herein shall preclude any party from moving this Court for an order  
18 directing the disclosure of such information, documents or things.

19 20 (b) In the event that any privileged attorney-client or work product documents or things  
20 are inadvertently produced for inspection and/or provided, the disclosing party shall identify such  
21 documents or things within five (5) days of when it discovers that the privileged materials were  
22 inadvertently produced for inspection and/or provided, and either (1) copies shall not be provided, or (2)  
23 if copies have already been provided, all copies in the receiving party's possession shall be promptly  
24 returned (and not relied upon) by the receiving party. Nothing in this paragraph shall prevent the  
25 receiving party from contending that the identified materials are not privileged, that the material was not  
26 inadvertently produced, or that privilege was waived for reasons other than mere inadvertent production  
27 of the material.  
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3 22. Within ninety (90) days after conclusion of this litigation and any and all appeals thereof,  
4 any document and all reproductions of "Confidential" documents produced by a party that are in the  
5 possession of any Qualified Person shall be returned to the producing party or, with the consent of the  
6 producing party, destroyed. If destroyed, counsel for the receiving party shall certify to counsel for the  
7 producing party compliance with this paragraph within fourteen (14) calendar days of such destruction.  
8 Outside counsel for each party may maintain in its files one copy of all material produced as well as all  
9 material<sup>10</sup> filed with or otherwise presented to the Court, deposition and trial transcripts, and work  
10 product<sup>11</sup> (regardless of whether such materials contain or refer to "Confidential" materials). If counsel  
11 retains such materials, the materials which contain Confidential Information shall be accessible only by  
12 Qualified Persons defined in paragraph 4(b) above. As far as the provisions of any protective orders  
13 entered in this action restrict the communication and use of the documents produced thereunder, such  
14 orders shall continue to be binding after the conclusion of this litigation including any subsequent  
15 appeals or later proceedings, except that (a) there shall be no restriction on documents that are used as  
16 exhibits in Court unless such exhibits were filed under seal, and (b) a party may seek the written  
17 permission of the producing party or order of the Court with respect to dissolution or modification of  
18 such protective orders. The Court shall retain jurisdiction to enforce the performance of said obligations.

20  
21 23. (a) At the election of the Producing Party, a Receiving Party's access to a Producing  
22 Party's<sup>23</sup> discoverable source code may be limited to inspection of the code at a secured facility provided  
23 by the Producing Party. Such inspection may be conducted only by persons identified in advance by the  
24 Receiving Party on a list of "Qualified Inspecting Personnel" which may include:

- 25 (1) the Receiving Party's Outside Counsel of record in this action; and  
26 (2) up to three Experts (as defined in this Order) of the Receiving Party to  
27 whom disclosure is reasonably necessary for this litigation and who have signed the  
28 "Agreement to Be Bound by Protective Order (Exhibit A) and who have been approved  
pursuant to the "Procedures for Approving Disclosure of 'CONFIDENTIAL' information

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2 of Items to 'Experts'" as set forth in paragraph 5.  
3 (b) The following provisions relate to Synopsys' provision of access to the Source  
Code for versions of its commercial products:  
4

5 (1) Synopsys will make available a closed room at its facility in Bethesda,  
6 Maryland for use by Ricoh's Qualified Inspecting Personnel. The room will be set aside  
7 for the exclusive use of Ricoh's Qualified Inspecting Personnel and will not be used by  
8 Synopsys or any other party when Ricoh's Qualified Inspecting Personnel are not present.  
9 The room will be available for a minimum of twelve weeks. After twelve weeks, and  
10 after consultation with Ricoh, Synopsys may close the facility pursuant to the procedures  
11 described in paragraph 4 below. If the facility is closed, Synopsys agrees to make the  
12 source code available for inspection under similar procedures at another date prior to the  
13 close of expert discovery.

14 (2) Synopsys will equip the closed room with a private phone if a phone jack  
15 is already available in the room, a stand-alone, non-networked, computer and high-speed  
16 printer. The computer will be loaded with copies of the source code to be produced and  
17 utilities required to review the code. The source code shall include the code which is  
18 used by Synopsys and no notes, comments, or any segments shall be removed before  
19 being made available. The computer will be equipped with the text editors available in a  
20 standard Unix distribution, suitable for use in editing the source code. Synopsys will  
21 assist Ricoh in loading software that Ricoh may require for analysis of the source code.  
22 The computer shall also be loaded with a complete distribution of the Synopsys software  
23 that is fully operable and executable.

24 (3) Ricoh may print copies of a reasonable subset of the source code for the  
25 Synopsys products at issue. Any printing done at the secure facility will be done  
26 exclusively on paper supplied by Synopsys. Synopsys may elect to place preprinted  
27 confidential designations on the margins of the paper. Ricoh's Qualified Inspecting  
28 Personnel are not to bring blank paper into the closed room except for the purpose of  
making handwritten notes. Synopsys will initially supply Ricoh with 5,000 pages of  
paper for use with the printer. This figure is based on the estimate that 5,000 pages  
should be sufficient to print approximately 5% of the source code for Design Compiler. If  
at any time, Ricoh believes that additional printing and paper is required, Ricoh may  
submit additional requests for paper to Synopsys with a general statement of the basis of  
the request. Synopsys will respond within one week to any such request. If the parties

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3 are unable to come to agreement after conferral, the matter may be presented to the  
4 Court. In evaluating requests for paper, the relevant standard to be applied is that Ricoh  
5 should be allowed to print hardcopies of a reasonable subset of the Synopsys source code  
6 and that what is reasonable shall be evaluated in light of relevance of the code to Ricoh's  
7 allegations and Synopsys' interest in preventing release in hardcopy of more than a  
8 fraction of its source code.

9 (4) Ricoh will be permitted to send individuals from the list of Qualified  
10 Inspecting Personnel to participate in and/or witness the closing of the secured facility.  
11 Before closing of the facility, Ricoh's representatives may provide a list of procedures  
12 that they wish to perform to ensure that any electronic record of their use of the machine  
13 has been erased.

14 (c) The Receiving Party will provide the Producing Party with a copy of its list of  
15 "Qualified Inspecting Personnel" no later than 5 business days before any person on the list attempts to  
16 access the secured facility. The Receiving Party may revise the list to add or remove individuals,  
provided that no more than a total of three Experts are ever provided with access to the source code  
during the entire course of the litigation absent an agreement by the parties or a Court Order to expand  
this number.

17 (d) Any notes taken or any other information created by Outside Counsel or the  
18 experts of the Receiving Party at or based on any inspection of the source code shall be treated as  
"CONFIDENTIAL" under this Protective Order.

19 24. This Order shall not bar any attorney herein in the course of rendering advice to his client  
20 with respect to this litigation from conveying to any party client his evaluation in a general way of  
21 "Confidential Information" produced or exchanged herein; provided, however, that in rendering such  
22 advice and otherwise communicating with his client, the attorney shall not disclose the specific contents  
23 of any "Confidential Information" produced by another party herein, which disclosure would be contrary  
24 to the terms of this Protective Order.

25 25. The Court shall retain jurisdiction to enforce the terms of this order for six (6) months  
26 after the final termination of this action.

27 Dated: March 23, 2004

HOWREY SIMON ARNOLD & WHITE, LLP

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/s/ Christopher L. Kelley  
Teresa M. Corbin, Esq.

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Christopher Kelley, Esq.  
Erik K. Moller, Esq.  
Attorneys for Plaintiff SYNOPSYS, INC.  
301 Ravenswood Avenue  
Menlo Park, CA 94025  
Telephone: (650) 463-8100  
Facsimile: (650) 463-8400

Dated: March 23, 2004

DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP

/s/ Kenneth W. Brothers  
Kenneth W. Brothers, Esq. (*pro hac vice*)  
Attorneys for Defendant RICOH COMPANY, LTD.  
2101 L Street NW  
Washington, DC 20037  
Telephone: (202) 785-9700  
Facsimile: (202) 887-0689

**ORDER**

**SO ORDERED** this 24th day of March, 2004.

/s/  
Magistrate Judge Edward M. Chen



1 Teresa M. Corbin (SBN 132360)  
Denise M. De Mory (SBN 168076)  
2 Ethan B. Andelman (SBN 209101)  
Jaclyn C. Fink (SBN 217913)  
3 HOWREY LLP  
525 Market Street, Suite 3600  
4 San Francisco, California 94105  
Telephone: (415) 848-4900  
5 Facsimile: (415) 848-4999

6 Attorneys for Plaintiff SYNOPSYS, INC.  
and for Defendants AEROFLEX INCORPORATED,  
7 AMI SEMICONDUCTOR, INC., MATROX  
ELECTRONIC SYSTEMS, LTD., MATROX  
8 GRAPHICS, INC., MATROX INTERNATIONAL  
CORP., MATROX TECH, INC., and  
9 AEROFLEX COLORADO SPRINGS, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 RICOH COMPANY, LTD.,

14 Plaintiff,

15 vs.

16 AEROFLEX INCORPORATED, AMI  
SEMICONDUCTOR, INC., MATROX  
17 ELECTRONIC SYSTEMS LTD., MATROX  
GRAPHICS INC., MATROX INTERNATIONAL  
18 CORP., MATROX TECH, INC., AND  
AEROFLEX COLORADO SPRINGS, INC.

19 Defendants.

20 SYNOPSYS, INC.,

21 Plaintiff,

22 vs.

23 RICOH COMPANY, LTD.,

24 Defendant.

Case No. C03-04669 MJJ (EMC)

Case No. C03-02289 MJJ (EMC)

**NOTICE OF SUBPOENA TO YALE  
UNIVERSITY**



1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 YOU ARE HEREBY NOTIFIED that pursuant to Federal Rule of Civil Procedure 45, Plaintiff  
3 Synopsys, Inc. has served Yale University c/o Dorothy K. Robinson, Vice President and General Counsel,  
4 the attached subpoena for production of documents.

5 The University is required to produce documents in its custody, possession or control specified in  
6 Attachment A to the subpoena by 10:00 a.m. EST on Friday, August 18, 2006 at Legal Impressions, 205  
7 Church Street, New Haven Connecticut, Telephone: (203) 907-4557.

8 Dated: August 14, 2006

HOWREY LLP

9  
10 By: 

11 Matthew F. Greinert  
12 Attorneys for Plaintiff SYNOPSYS  
13 Defendants AEROFLEX  
14 INCORPORATED, AMI  
15 SEMICONDUCTOR, INC., MATROX  
16 ELECTRONIC SYSTEMS, LTD.,  
17 MATROX GRAPHICS, INC., MATROX  
18 INTERNATIONAL CORP., MATROX  
19 TECH, INC., and AEROFLEX  
20 COLORADO SPRINGS, INC.  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

ss.:

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 525 Market Street, Suite 3600, San Francisco, California 94105.

On August 14, 2006 I served on the interested parties in said action the within:

**NOTICE OF SUBPOENA TO YALE UNIVERSITY**

by causing said document to be sent by Electronic Mail on August 14, 2006 to the email addresses indicated for the parties listed below and by placing a true copy thereof in a sealed envelope(s) addressed as stated below and causing such envelope(s) to be delivered as follows:

Gary M. Hoffman, Esq.

HoffmanG@dsmo.com

Dickstein Shapiro Morin &amp; Oshinsky, LLP

2101 L Street, N.W.

Washington, DC 20037-1526

Jeffrey Demain, Esq.

jdemain@altshulerberzon.com

Altshuler, Berzon, Nussbaum, Rubin &amp; Demain

177 Post Street, Suite 300

San Francisco, CA 94108

Facsimile No.: (202) 887-0689

Facsimile No.: (415) 362-8064

Edward A. Meilman, Esq.

MeilmanE@dsmo.com

Dickstein Shapiro Morin &amp; Oshinsky, LLP

1177 Avenue of the Americas

New York, NY 10036-2714

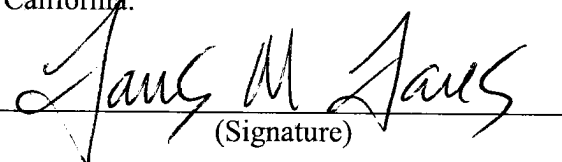
Facsimile No.: (212) 896-5471

☒ (OVERNIGHT DELIVERY) on August 14, 2006 by depositing in a box or other facility regularly maintained by Federal Express, an express service carrier, or delivering to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed as stated above, with fees for overnight delivery paid or provided for and causing such envelope(s) to be delivered by said express service carrier on.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on August 14, 2006, at San Francisco, California.

James M. James  
(Type or print name)

  
(Signature)

Issued by the  
**UNITED STATES DISTRICT COURT**

DISTRICT OF CONNECTICUT

RICOH COMPANY, LTD

V.  
AEROFLEX, INCORPORATED, et al.

**SUBPOENA IN A CIVIL CASE**

Case Number: <sup>1</sup> C03-04669 MJJ (EMC)  
(Pending in the US District Court for  
the Northern District of California)

TO: DOROTHY K. ROBINSON, Esq., Vice President & General Counsel,  
on behalf of YALE UNIVERSITY  
2 Whitney Avenue, 6<sup>th</sup> Floor  
New Haven, Connecticut 06510

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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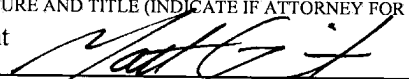
☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):  
SEE ATTACHMENT A

PLACE Legal Impressions, attention Michael Ferreira 205 Church St, New Haven, Connecticut, 203-907-4557	DATE AND TIME August 18, 2006, 10:00 a.m. EST
--	--

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant 	DATE August 14, 2006
---	-------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Matthew F. Greinert, HOWREY LLP, 525 Market Street, Suite 3600, San Francisco, CA 94105; Telephone: (415) 848-4900

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**PROOF OF SERVICE**

DATE \_\_\_\_\_ PLACE \_\_\_\_\_

SERVED:

SERVED ON (PRINT NAME) \_\_\_\_\_ MANNER OF SERVICE \_\_\_\_\_

SERVED BY (PRINT NAME) \_\_\_\_\_ TITLE \_\_\_\_\_

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

DATE

SIGNATURE OF SERVER \_\_\_\_\_

ADDRESS OF SERVER \_\_\_\_\_

**Rule 45, Federal Rules of Civil Procedure, Parts C & D:**

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## **ATTACHMENT A**

Pursuant to Federal Rule of Civil Procedure 45 and as directed in the subpoena attached hereto, you are to produce all documents and things within the scope of the following definitions and descriptions that are within your possession, custody, or control. A Protective Order has been entered in this case by the United States District Court for the Northern District of California and is attached as Attachment B. Included in the Protective Order are provisions for the protection of confidential information produced by a third party. With respect to documents and things withheld under a claim of privilege, you are required under Rule 45 to describe the nature of the documents and things withheld in a manner sufficient to enable the demanding party to contest the claims.

## **DEFINITIONS**

1. The terms “you,” and “your,” mean, without limitation, Yale University, including without limitation all of its subsidiaries, parents, departments and affiliates, and all past or present directors, officers, agents, representatives, employees, students, consultants, attorneys, entities acting in joint-venture or partnership relationships with Yale University and others acting on behalf of Yale University.

2. As used herein, the word “document” means the original and each nonidentical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether in final or draft, including but not limited to all materials that constitute “writings,” “recordings,” “photographs,” “source code” or “executable code” within the broadest meaning of Rule 1001 of the Federal Rules of Evidence and all materials that constitute “documents” within the broadest meaning of Rule 34 of the Federal Rules of Civil Procedure. The word “document” includes, without limitation, printed matter, electronic mail, materials stored on computer hard drives, diskettes, tapes, any other computer media, and any other information stored magnetically, optically or in any electronic medium and/or form.

3. As used herein, “person” means any individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity.

4. As used herein, “communication” includes, without limitation, communications by whatever means transmitted (i.e., whether oral, written, electronic or other methods used), as well as any note, memorandum or other record thereof.

5. The terms “regarding, referring or relating to” and “concerning” mean reflecting, concerning, containing, pertaining, referring, relating to, indicating, showing, describing, evidencing, discussing, mentioning, embodying or computing.

6. Whenever the singular is used, it shall also be taken to include the plural, and vice versa. Whenever the conjunctive is used, it shall also be taken to include the disjunctive, and vice versa.

### **INSTRUCTIONS**

The following instructions apply to each of the requests for documents set forth herein:

1. Please produce entire documents, including, but not limited to, attachments, enclosures, cover letters, memoranda, and appendices.

2. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these requests for documents shall be deemed continuous up to and following the trial of this proceeding such that any documents or things requested herein which is either discovered by you or comes within your possession, custody or control subsequent to your initial responses hereto but prior to the final conclusion of this case should be produced in a supplemental response to these Document Requests immediately upon its discovery or receipt by you or your counsel.

3. If any document is withheld under a claim of privilege, in order that the Court and the parties may determine the validity of the claim of privilege, please provide a privilege log identifying each document withheld, including

- a. The type of document;
- b. The approximate date, and manner of recording, creating or otherwise preparing the document;
- c. The subject matter of the document;
- d. The name and organizational position of the person(s) who produced the document,

- e. The name and organizational position of the person(s) who received a copy of the document, or to whom the document was disclosed; and
- f. The claimed grounds on which the document is being withheld and facts sufficient to show the basis for each claim of privilege.

4. If you object to any part of a request for documents and refuse to produce documents responsive to that part, state your objection and respond to the remaining portion of that request. If you object to the scope or time period of a request for documents, state your objection and respond to the request for documents for the scope or time period you believe is appropriate.

5. Please produce all documents in the order in which they are kept in the ordinary course of business, and in their original file folders, binders, covers or containers, or facsimile thereof.

6. Any document bearing any changes, including, but not limited to, markings, handwritten notation, or other differences, that are not a part of the original text, or any reproduction thereof, is to be considered a separate document for purposes of responding to the following document requests. English translations of partial translations of foreign language documents should also be considered separate documents.

7. If a requested document is in a language other than English, please produce both the original and any existing English translation thereof.

8. If any of the following requests for documents cannot be responded to in full after exercising due diligence to secure the requested documents, please so state and respond to the extent possible, specifying your inability to respond to the remainder and stating whatever information you have regarding, referring or relating to the unanswered portions. If your response is qualified in any particular manner, set forth the details of such qualification.

9. Please produce hard copies of electronic records or produce computerized information in an intelligible format with a description of the system from which it was derived sufficient to permit rendering the materials intelligible.



## **DOCUMENT REQUESTS**

### **Request No.1:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Computer Systems" in the Electrical Engineering and Computer Science Department at Yale University, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, an instructional RISC microprocessor implemented in Verilog, and any other demonstrative software and hardware created for the course.

### **Request No. 2:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Computer-Aided Design of Integrated Circuits" in the Electrical Engineering and Computer Science Department at Yale University, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

### **Request No. 3:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of any course within the Electrical Engineering and Computer Science Department, or any other Department, at Yale University, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for any such course.



# ATTACHMENT B

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
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12 SYNOPSYS, INC.,  
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14 Plaintiff,

15 vs.

16 RICOH COMPANY, LTD.,

17 Defendant.

CASE NO. C03-02289-MJJ (EMC)

STIPULATED PROTECTIVE ORDER

18  
19 1. All Confidential Information produced or exchanged in the course of this litigation shall  
20 be used solely for the purpose of preparation and trial of this litigation and for no other purpose  
21 whatsoever, and shall not be disclosed to any person except in accordance with the terms hereof.

22 2. "Confidential Information," as used herein, means any information of any type, kind or  
23 character that is designated as "Confidential" by any of the supplying or receiving parties, whether it be  
24 a document, information contained in a document, information revealed during a deposition,  
25 information revealed in an interrogatory answer or otherwise. In designating information as  
26 "Confidential," a party will make such designation only as to that information that it in good faith  
27 believes contains "Confidential Information."

28 3. (a) "Confidential Information" includes, but is not limited to, (i) proprietary technical

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information and specifications, (ii) trade secrets (iii) confidential know-how, and (iv) proprietary  
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business and financial information and any other non-public information, the disclosure of which is  
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likely to have the effect of causing significant competitive harm to the disclosing party or party from  
which the information was obtained. Nothing in this paragraph shall be construed to limit the  
description of "Confidential Information" set forth in paragraph 2.

8 (b) Nothing shall be regarded as "Confidential Information" if it is information that:  
9 (i) is in the public domain at the time of disclosure, as evidenced by a written document;  
10 (ii) becomes part of the public domain through no fault of the other party, as evidenced  
11 by a written document;  
12 (iii) was in the receiving party's rightful and lawful possession at the time of disclosure,  
13 as evidenced by a written document; or  
14 (iv) is lawfully received by the receiving party from a third party at a later date without  
15 restriction as to disclosure, provided such third party has the right to make the disclosure to the  
16 receiving party.  
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18 4. "Qualified Persons," as used herein means:  
19 (a) To the Court and its officers and staff, including court reporters;  
20 (b) Outside attorneys of record for the parties in this litigation and employees of such  
attorneys to whom it is necessary that the material be shown for purposes of this litigation;  
22 (c) Outside experts, consultants, advisors or investigators (collectively referred to  
23 hereafter as "experts") who have signed an undertaking pursuant to paragraph 5 but only after  
24 compliance with the provisions of paragraph 5 below;  
25 (d) To non-party support services including, but not limited to, court reporters, outside  
26 copy services, document imaging and database services, design services who have signed confidentiality  
27 agreements, jury consultants who have signed confidentiality agreements, mock jurors who have signed  
28 confidentiality agreements, and language translators who have signed confidentiality agreements

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(including support staff) as may be reasonably necessary in connection with the preparation or conduct  
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of this action;  
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5 (e) Anyone to whom the parties consent in writing; and

6 (f) If this Court so elects, any other person may be designated as a Qualified Person by  
order of this Court, after notice and opportunity to be heard to all parties.

8 5. Prior to the disclosure of any "Confidential Information" to any expert under Paragraph  
4(c), counsel for the Party seeking to make the disclosure shall: (i) deliver a copy of this Protective  
Order as entered to such person, explain its terms to such person, and secure the signature of such  
person on a written undertaking in the form attached hereto as Exhibit A, and (ii) transmit by facsimile  
and mail to counsel for the other Parties a copy of the signed Exhibit A, accompanied by a curriculum  
vitae, at least ten (10) calendar days before any "Confidential Information" designated under this  
Protective Order is to be disclosed to the signator. The curriculum vitae should identify the general  
area(s) of expertise of the expert, provide a brief job history, specify all employment, expert or  
consulting engagements by the expert within the past five (5) years, and state all present or prior  
relationships between the expert and any entity directly or indirectly involved in this litigation or  
providing an indemnity to any such entity, its subsidiaries or its affiliates. Any Party may object to the  
proposed disclosure to an expert within the ten (10) calendar day period following the transmittal of  
Exhibit A and the curriculum vitae, by stating specifically in writing the reasons why the Party believes  
such expert should not receive designated "Confidential Information." If during that ten (10) calendar  
day period a Party makes such a written objection, there shall be no disclosure of "Confidential  
Information" to the expert absent mutual agreement of the Parties, waiver of the objection as stated  
below, or further order of the Court. After a Party objects to the proposed disclosure to an expert, the  
objecting Party shall move, by noticed motion or by ex parte application, for an order that disclosure not  
be made to such expert within five (5) business days following the date that the objection is made, or the  
Party's objection shall be deemed waived and disclosure may be made to the expert. The burden shall

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3 be on the objecting Party to establish why the disclosure should not be made. Each Party shall maintain  
4 a file of all such signed copies of Exhibit A. However, it shall not be necessary for administrative,  
5 secretarial or clerical personnel working for such Qualified Person to sign a written undertaking.

6 6. (a) Documents produced in this action may be designated by any party or parties as  
7 "Confidential" by marking each page of the document(s) with the designation "Confidential."

8 (b) In lieu of marking the original of a document, if the original is not produced, the  
9 designating party may mark the copies that are produced or exchanged. Originals shall be preserved for  
10 inspection.

11 (c) If the document is not in paper form, the producing person or entity shall use other  
12 such reasonable means as necessary to identify clearly the document or information as "Confidential."

13 7. Discovery responses or other litigation materials may be designated by any party or  
14 parties as "Confidential" by marking each page of the response with the designation "Confidential."

15 8. The designation of information disclosed during a deposition as "Confidential" shall be  
16 made either by a statement on the record at the deposition or within twenty (20) calendar days after  
17 receipt by counsel of a copy of the deposition transcript. Such designation will be applied to only those  
18 portions of the deposition transcript that include a specific question and response or series of questions  
19 and responses containing "Confidential Information." The deposition transcript shall be printed in  
20 consecutive pages (whether or not some pages are designated as "Confidential") with a marking on the  
21 cover of the deposition transcript indicating the "Confidential" designation contained therein. Unless  
22 previously designated otherwise, all deposition transcripts shall be treated as "Confidential" in their  
23 entirety prior to the end of the twenty (20) calendar day period following receipt by counsel of a copy of  
24 the deposition transcript.  
25

26 9. "Confidential Information" shall not be disclosed or made available by the receiving  
27 party to persons other than Qualified Persons except that nothing herein is intended to prevent  
28 individuals who are in-house counsel or a member of the professional legal department of the Parties

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3 from having access to pleadings, briefs and exhibits or declarations filed with the Court and expert  
4 reports, including exhibits that are designated as "Confidential."

5 10. (a) Documents to be inspected shall be treated as "Confidential" although such  
6 documents need not be marked as "Confidential" prior to inspection. At the time of copying for the  
7 receiving parties, any documents containing "Confidential Information" shall be stamped prominently  
8 "Confidential" by the producing party.

9 (b) Nothing herein shall prevent disclosure beyond the terms of this Order if each party  
10 designating the information as "Confidential" consents to such disclosure or if the Court, after notice to  
11 all affected parties, orders such disclosures. Nothing herein shall prevent any counsel of record from  
12 utilizing "Confidential Information" in the examination or cross-examination of any person who is  
13 indicated on the document as being an author, source or recipient of the "Confidential Information,"  
14 irrespective of which party produced such information. Nothing herein shall prevent any counsel of  
15 record from utilizing "Confidential Information" in the examination or cross-examination of any person  
16 who is a current or former officer, director or employee of the party so designating the information as  
17 "Confidential" or of the party that produced the information or of a related entity.  
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19 11. If a party inadvertently discloses any document or thing containing information that it  
20 deems confidential without designating it as "Confidential," the disclosing party shall promptly upon  
21 discovery of such inadvertent disclosure inform the receiving party in writing, and the receiving party  
22 and all Qualified Persons possessing such information shall thereafter treat the information as  
23 "Confidential" under this Order. To the extent such information may have been disclosed to persons  
24 other than Qualified Persons described in this document, the receiving party shall make every  
25 reasonable effort to retrieve the information promptly from such persons and to avoid any further  
26 disclosure to and by such persons.  
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28 12. A party shall not be obligated to challenge the propriety of a designation as  
"Confidential" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto.

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3 Nor will the failure to object be construed as an admission that any particular "Confidential  
4 Information" contains or reflects currently valuable trade secrets or confidential commercial  
5 information. In the event that any party to this litigation disagrees at any stage of these proceedings  
6 with the designation by the designating party of any information as "Confidential," or the designation of  
7 any person as a Qualified Person, the parties shall first try to resolve such dispute in good faith on an  
8 informal basis, such as production of redacted copies. If the parties are unsuccessful in informally  
9 resolving any disputes regarding the designation of any document or information as "Confidential," the  
10 Court shall resolve all such disputes. It shall be the burden of the party making any designation to  
11 establish that the information so designated is "Confidential" within the meaning of this Protective  
12 Order. The "Confidential Information" that is the subject of the dispute shall be treated as originally  
13 designated pending resolution of the dispute.

14 13. The parties may, by written stipulation filed and approved by the Court, amend this  
15 Order, and any party may seek an order of this Court modifying this Protective Order. The parties agree  
16 to meet and confer prior to seeking to modify this Protective Order. In addition, the Court may modify  
17 this Protective Order in the interest of justice or otherwise at the Court's discretion.  
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19 14. In the event a party wishes to use any "Confidential Information" in any affidavits,  
20 briefs, memoranda of law, or other papers filed with the Court in this litigation, such "Confidential  
21 Information" used therein shall be filed under seal with the Court. In addition to placing documents in a  
22 sealed envelope with instructions that the document is filed pursuant to the Stipulated Protective Order  
23 and that the envelope is not to be opened absent further order of the Court, the envelope should be  
24 labeled to identify the title of the case, the case number, and the title of the document.

25 15. The Clerk of this Court is directed to maintain under seal all documents and transcripts of  
26 deposition testimony and answers to interrogatories, admissions and other pleadings filed under seal  
27 with the Court in this litigation that have been designated, in whole or in part, as "Confidential" by a  
28 party to this action.

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3 16. If a Party intends to offer into evidence or otherwise disclose in open court any  
4 "Confidential Information" designated by another person or entity, counsel for such Party shall notify  
5 the designating person or entity that the Party intends to disclose "Confidential Information" in open  
6 court prior to the disclosure, so that the designating person or entity may confer with the Court  
7 concerning appropriate procedures for protecting its "Confidential Information."

8 17. In the event any person or party that has possession, custody, or control of any  
9 information designated as "Confidential" pursuant to the terms of this Protective Order receives a  
10 subpoena or other process or order to produce such information, such person or party shall notify by  
11 mail within five (5) business days of the Party's receipt of the request, the counsel for the party or  
12 persons claiming confidential treatment of the documents sought by such subpoenas or other process or  
13 order, shall furnish such counsel with a copy of said subpoena or other process or order, and shall  
14 cooperate with respect to any procedure sought to be pursued by the party whose interests may be  
15 affected. The party asserting the "Confidential" treatment shall have the burden of defending against  
16 such subpoena, process or order. The person or party receiving the subpoena or process or order shall  
17 be entitled to comply with it except: (a) to the extent the party asserting the "Confidential" treatment is  
18 successful in obtaining an order modifying or quashing it; and (b) in complying with the process or  
19 order shall, at a minimum, seek to obtain "Confidential" treatment of the "Confidential Information"  
20 before producing it in the other proceeding or action.

22 18. If the discovery process calls for the production of information that a Party or Non-Party  
23 does not wish to produce because the Party or Non-Party believes its disclosure would breach an  
24 agreement with another person or entity to maintain such information in confidence, the disclosing Party  
25 or Non-Party promptly shall give written notice to the other person or entity that its information is  
26 subject to discovery in this litigation, and shall provide such person or entity with a copy of this  
27 Protective Order. When such written notice is given to the person or entity, the disclosing Party or Non-  
28 Party will advise the potential receiving Party that such notice has been given. The person or entity



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3 whose information may be subject to discovery shall have ten (10) business days from receipt of the  
4 written notice in which to seek relief from the Court, if the person or entity so desires. If the ten (10)  
5 business days elapse without the person or entity seeking relief from the Court, the requested  
6 information shall be produced in accordance with the terms of this Protective Order.

7 19. In the event that additional persons or entities become Parties, none of such Parties'  
8 counsel, experts or consultants retained to assist said counsel, shall have access to "Confidential  
9 Information" produced by or obtained from any other producing person or entity until said Party has  
10 executed and filed with the Court its agreement to be fully bound by this Protective Order.

11 20. This Protective Order shall apply to the parties and any non-party from whom discovery  
12 may be sought and who desires protection for the discovery sought. Thus, any non-party requested or  
13 required to produce or disclose information in this proceeding, through subpoena or otherwise, may  
14 designate such information pursuant to the terms of this Protective Order.

15 21. (a) Nothing herein requires disclosure of information, documents or things which the  
16 disclosing entity contends is protected from disclosure by the attorney-client privilege or the work-  
17 product exception. Nothing herein shall preclude any party from moving this Court for an order  
18 directing the disclosure of such information, documents or things.

19 (b) In the event that any privileged attorney-client or work product documents or things  
20 are inadvertently produced for inspection and/or provided, the disclosing party shall identify such  
21 documents or things within five (5) days of when it discovers that the privileged materials were  
22 inadvertently produced for inspection and/or provided, and either (1) copies shall not be provided, or (2)  
23 if copies have already been provided, all copies in the receiving party's possession shall be promptly  
24 returned (and not relied upon) by the receiving party. Nothing in this paragraph shall prevent the  
25 receiving party from contending that the identified materials are not privileged, that the material was not  
26 inadvertently produced, or that privilege was waived for reasons other than mere inadvertent production  
27 of the material.  
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3 22. Within ninety (90) days after conclusion of this litigation and any and all appeals thereof,  
4 any document and all reproductions of "Confidential" documents produced by a party that are in the  
5 possession of any Qualified Person shall be returned to the producing party or, with the consent of the  
6 producing party, destroyed. If destroyed, counsel for the receiving party shall certify to counsel for the  
7 producing party compliance with this paragraph within fourteen (14) calendar days of such destruction.  
8 Outside counsel for each party may maintain in its files one copy of all material produced as well as all  
9 material<sup>10</sup> filed with or otherwise presented to the Court, deposition and trial transcripts, and work  
10 product<sup>11</sup> (regardless of whether such materials contain or refer to "Confidential" materials). If counsel  
11 retains such materials, the materials which contain Confidential Information shall be accessible only by  
12 Qualified Persons defined in paragraph 4(b) above. As far as the provisions of any protective orders  
13 entered in this action restrict the communication and use of the documents produced thereunder, such  
14 orders shall continue to be binding after the conclusion of this litigation including any subsequent  
15 appeals or later proceedings, except that (a) there shall be no restriction on documents that are used as  
16 exhibits in Court unless such exhibits were filed under seal, and (b) a party may seek the written  
17 permission of the producing party or order of the Court with respect to dissolution or modification of  
18 such protective orders. The Court shall retain jurisdiction to enforce the performance of said obligations.

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21 23. (a) At the election of the Producing Party, a Receiving Party's access to a Producing  
22 Party's<sup>23</sup> discoverable source code may be limited to inspection of the code at a secured facility provided  
23 by the Producing Party. Such inspection may be conducted only by persons identified in advance by the  
24 Receiving Party on a list of "Qualified Inspecting Personnel" which may include:

- 25 (1) the Receiving Party's Outside Counsel of record in this action; and  
26 (2) up to three Experts (as defined in this Order) of the Receiving Party to  
27 whom disclosure is reasonably necessary for this litigation and who have signed the  
28 "Agreement to Be Bound by Protective Order (Exhibit A) and who have been approved  
pursuant to the "Procedures for Approving Disclosure of 'CONFIDENTIAL' information

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2 of Items to 'Experts'" as set forth in paragraph 5.  
3 (b) The following provisions relate to Synopsys' provision of access to the Source  
Code for versions of its commercial products:  
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5 (1) Synopsys will make available a closed room at its facility in Bethesda,  
6 Maryland for use by Ricoh's Qualified Inspecting Personnel. The room will be set aside  
7 for the exclusive use of Ricoh's Qualified Inspecting Personnel and will not be used by  
8 Synopsys or any other party when Ricoh's Qualified Inspecting Personnel are not present.  
9 The room will be available for a minimum of twelve weeks. After twelve weeks, and  
10 after consultation with Ricoh, Synopsys may close the facility pursuant to the procedures  
11 described in paragraph 4 below. If the facility is closed, Synopsys agrees to make the  
12 source code available for inspection under similar procedures at another date prior to the  
13 close of expert discovery.

14 (2) Synopsys will equip the closed room with a private phone if a phone jack  
15 is already available in the room, a stand-alone, non-networked, computer and high-speed  
16 printer. The computer will be loaded with copies of the source code to be produced and  
17 utilities required to review the code. The source code shall include the code which is  
18 used by Synopsys and no notes, comments, or any segments shall be removed before  
19 being made available. The computer will be equipped with the text editors available in a  
20 standard Unix distribution, suitable for use in editing the source code. Synopsys will  
21 assist Ricoh in loading software that Ricoh may require for analysis of the source code.  
22 The computer shall also be loaded with a complete distribution of the Synopsys software  
23 that is fully operable and executable.

24 (3) Ricoh may print copies of a reasonable subset of the source code for the  
25 Synopsys products at issue. Any printing done at the secure facility will be done  
26 exclusively on paper supplied by Synopsys. Synopsys may elect to place preprinted  
27 confidential designations on the margins of the paper. Ricoh's Qualified Inspecting  
28 Personnel are not to bring blank paper into the closed room except for the purpose of  
making handwritten notes. Synopsys will initially supply Ricoh with 5,000 pages of  
paper for use with the printer. This figure is based on the estimate that 5,000 pages  
should be sufficient to print approximately 5% of the source code for Design Compiler. If  
at any time, Ricoh believes that additional printing and paper is required, Ricoh may  
submit additional requests for paper to Synopsys with a general statement of the basis of  
the request. Synopsys will respond within one week to any such request. If the parties

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3 are unable to come to agreement after conferral, the matter may be presented to the  
4 Court. In evaluating requests for paper, the relevant standard to be applied is that Ricoh  
5 should be allowed to print hardcopies of a reasonable subset of the Synopsys source code  
6 and that what is reasonable shall be evaluated in light of relevance of the code to Ricoh's  
7 allegations and Synopsys' interest in preventing release in hardcopy of more than a  
8 fraction of its source code.

9 (4) Ricoh will be permitted to send individuals from the list of Qualified  
10 Inspecting Personnel to participate in and/or witness the closing of the secured facility.  
11 Before closing of the facility, Ricoh's representatives may provide a list of procedures  
12 that they wish to perform to ensure that any electronic record of their use of the machine  
13 has been erased.

14 (c) The Receiving Party will provide the Producing Party with a copy of its list of  
15 "Qualified Inspecting Personnel" no later than 5 business days before any person on the list attempts to  
16 access the secured facility. The Receiving Party may revise the list to add or remove individuals,  
17 provided that no more than a total of three Experts are ever provided with access to the source code  
18 during the entire course of the litigation absent an agreement by the parties or a Court Order to expand  
19 this number.

20 (d) Any notes taken or any other information created by Outside Counsel or the  
21 experts of the Receiving Party at or based on any inspection of the source code shall be treated as  
22 "CONFIDENTIAL" under this Protective Order.

23 24. This Order shall not bar any attorney herein in the course of rendering advice to his client  
24 with respect to this litigation from conveying to any party client his evaluation in a general way of  
25 "Confidential Information" produced or exchanged herein; provided, however, that in rendering such  
26 advice and otherwise communicating with his client, the attorney shall not disclose the specific contents  
27 of any "Confidential Information" produced by another party herein, which disclosure would be contrary  
28 to the terms of this Protective Order.

29 25. The Court shall retain jurisdiction to enforce the terms of this order for six (6) months  
30 after the final termination of this action.

31 Dated: March 23, 2004

HOWREY SIMON ARNOLD & WHITE, LLP

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/s/ Christopher L. Kelley  
Teresa M. Corbin, Esq.



1 Teresa M. Corbin (SBN 132360)  
Denise M. De Mory (SBN 168076)  
2 Ethan B. Andelman (SBN 209101)  
Jaclyn C. Fink (SBN 217913)  
3 HOWREY LLP  
525 Market Street, Suite 3600  
4 San Francisco, California 94105  
Telephone: (415) 848-4900  
5 Facsimile: (415) 848-4999

6 Attorneys for Plaintiff SYNOPSIS, INC.  
and for Defendants AEROFLEX INCORPORATED,  
7 AMI SEMICONDUCTOR, INC., MATROX  
ELECTRONIC SYSTEMS, LTD., MATROX  
8 GRAPHICS, INC., MATROX INTERNATIONAL  
CORP., MATROX TECH, INC., and  
9 AEROFLEX COLORADO SPRINGS, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 RICOH COMPANY, LTD.,

14 Plaintiff,

15 vs.

16 AEROFLEX INCORPORATED, AMI  
SEMICONDUCTOR, INC., MATROX  
17 ELECTRONIC SYSTEMS LTD., MATROX  
GRAPHICS INC., MATROX INTERNATIONAL  
18 CORP., MATROX TECH, INC., AND  
AEROFLEX COLORADO SPRINGS, INC.

19 Defendants.

20 SYNOPSIS, INC.,

21 Plaintiff,

22 vs.

23 RICOH COMPANY, LTD.,

24 Defendant.

Case No. C03-04669 MJJ (EMC)

Case No. C03-02289 MJJ (EMC)

**NOTICE OF SUBPOENA TO THE  
MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:


2 YOU ARE HEREBY NOTIFIED that pursuant to Federal Rule of Civil Procedure 45, Plaintiff  
3 Synopsys, Inc. has served Massachusetts Institute of Technology c/o Jamie Lewis Keith, Senior Counsel,  
4 the attached subpoena for production of documents.

5 The Massachusetts Institute of Technology is required to produce documents in its custody,  
6 possession or control specified in Attachment A to the subpoena by 10:00 a.m. EST on Friday, August 18,  
7 2006 at WarRoom Document Solutions, 274 Summer Street, 2<sup>nd</sup> Floor, Boston, Massachusetts 02210,  
8 Telephone: (617) 426-6463.

9 Dated: August 14, 2006

HOWREY LLP

10  
11 By: \_\_\_\_\_

  
Matthew F. Greinert  
Attorneys for Plaintiff SYNOPSYS  
Defendants AEROFLEX  
INCORPORATED, AMI  
SEMICONDUCTOR, INC., MATROX  
ELECTRONIC SYSTEMS, LTD.,  
MATROX GRAPHICS, INC., MATROX  
INTERNATIONAL CORP., MATROX  
TECH, INC., and AEROFLEX  
COLORADO SPRINGS, INC.

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.:  
 COUNTY OF SAN FRANCISCO )

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 525 Market Street, Suite 3600, San Francisco, California 94105.

On August 14, 2006 I served on the interested parties in said action the within:

**NOTICE OF SUBPOENA TO THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY**

by causing said document to be sent by Electronic Mail on August 14, 2006 to the email addresses indicated for the parties listed below and by placing a true copy thereof in a sealed envelope(s) addressed as stated below and causing such envelope(s) to be delivered as follows:

Gary M. Hoffman, Esq.  
HoffmanG@dsmo.com  
 Dickstein Shapiro Morin & Oshinsky, LLP  
 2101 L Street, N.W.  
 Washington, DC 20037-1526

Jeffrey Demain, Esq.  
jdemain@altshulerberzon.com  
 Altshuler, Berzon, Nussbaum, Rubin & Demain  
 177 Post Street, Suite 300  
 San Francisco, CA 94108

Facsimile No.: (202) 887-0689

Facsimile No.: (415) 362-8064

Edward A. Meilman, Esq.  
MeilmanE@dsmo.com  
 Dickstein Shapiro Morin & Oshinsky, LLP  
 1177 Avenue of the Americas  
 New York, NY 10036-2714

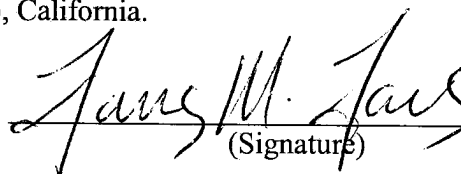
Facsimile No.: (212) 896-5471

☒ (OVERNIGHT DELIVERY) on August 14, 2006 by depositing in a box or other facility regularly maintained by Federal Express, an express service carrier, or delivering to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed as stated above, with fees for overnight delivery paid or provided for and causing such envelope(s) to be delivered by said express service carrier on.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on August 14, 2006, at San Francisco, California.

James M. James  
 (Type or print name)

  
 (Signature)



Issued by the  
**UNITED STATES DISTRICT COURT**

DISTRICT OF MASSACHUSETTS

RICOH COMPANY, LTD

V.  
AEROFLEX, INCORPORATED, et al.

**SUBPOENA IN A CIVIL CASE**

Case Number: <sup>1</sup> C03-04669 MJJ (EMC)  
(Pending in the US District Court for  
the Northern District of California)

TO: JAMIE LEWIS KEITH, Esq., Senior Counsel on behalf of  
Massachusetts Institute of Technology  
Office of the Senior Counsel, Room 7-206 & Room 12-090  
77 Massachusetts Avenue, Cambridge, Massachusetts 02139

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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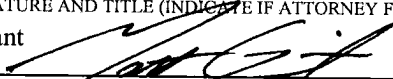
☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):  
SEE ATTACHMENT A

PLACE WarRoom Document Solutions, attn: Errol Chin 274 Summer Street, 2 <sup>nd</sup> Floor, Boston, Massachusetts 02210, (617) 426-6463	DATE AND TIME August 18, 2006, 10:00 a.m. EST
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☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant 	DATE August 14, 2006
---	-------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Matthew F. Greinert, HOWREY LLP, 525 Market Street, Suite 3600, San Francisco, CA 94105; Telephone: (415) 848-4900

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**PROOF OF SERVICE**

DATE \_\_\_\_\_ PLACE \_\_\_\_\_

SERVED:

SERVED ON (PRINT NAME) \_\_\_\_\_ MANNER OF SERVICE \_\_\_\_\_

SERVED BY (PRINT NAME) \_\_\_\_\_ TITLE \_\_\_\_\_

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

DATE

SIGNATURE OF SERVER \_\_\_\_\_

ADDRESS OF SERVER \_\_\_\_\_

**Rule 45, Federal Rules of Civil Procedure, Parts C & D:**

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## **ATTACHMENT A**

Pursuant to Federal Rule of Civil Procedure 45 and as directed in the subpoena attached hereto, you are to produce all documents and things within the scope of the following definitions and descriptions that are within your possession, custody, or control. A Protective Order has been entered in this case by the United States District Court for the Northern District of California and is attached as Attachment B. Included in the Protective Order are provisions for the protection of confidential information produced by a third party. With respect to documents and things withheld under a claim of privilege, you are required under Rule 45 to describe the nature of the documents and things withheld in a manner sufficient to enable the demanding party to contest the claims.

## **DEFINITIONS**

1. The terms “you,” and “your,” mean, without limitation, Massachusetts Institute of Technology, including without limitation all of its subsidiaries, parents, departments and affiliates, and all past or present directors, officers, agents, representatives, employees, students, consultants, attorneys, entities acting in joint-venture or partnership relationships with Massachusetts Institute of Technology and others acting on behalf of Massachusetts Institute of Technology.

2. As used herein, the word “document” means the original and each nonidentical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether in final or draft, including but not limited to all materials that constitute “writings,” “recordings,” “photographs,” “source code” or “executable code” within the broadest meaning of Rule 1001 of the Federal Rules of Evidence and all materials that constitute “documents” within the broadest meaning of Rule 34 of the Federal Rules of Civil Procedure. The word “document” includes, without limitation, printed matter, electronic mail, materials stored on computer hard drives, diskettes, tapes, any other computer media, and any other information stored magnetically, optically or in any electronic medium and/or form.

3. As used herein, “person” means any individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity.

4. As used herein, “communication” includes, without limitation, communications by whatever means transmitted (i.e., whether oral, written, electronic or other methods used), as well as any note, memorandum or other record thereof.

5. The terms “regarding, referring or relating to” and “concerning” mean reflecting, concerning, containing, pertaining, referring, relating to, indicating, showing, describing, evidencing, discussing, mentioning, embodying or computing.

6. Whenever the singular is used, it shall also be taken to include the plural, and vice versa. Whenever the conjunctive is used, it shall also be taken to include the disjunctive, and vice versa.

### **INSTRUCTIONS**

The following instructions apply to each of the requests for documents set forth herein:

1. Please produce entire documents, including, but not limited to, attachments, enclosures, cover letters, memoranda, and appendices.

2. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these requests for documents shall be deemed continuous up to and following the trial of this proceeding such that any documents or things requested herein which is either discovered by you or comes within your possession, custody or control subsequent to your initial responses hereto but prior to the final conclusion of this case should be produced in a supplemental response to these Document Requests immediately upon its discovery or receipt by you or your counsel.

3. If any document is withheld under a claim of privilege, in order that the Court and the parties may determine the validity of the claim of privilege, please provide a privilege log identifying each document withheld, including

- a. The type of document;
- b. The approximate date, and manner of recording, creating or otherwise preparing the document;
- c. The subject matter of the document;

- d. The name and organizational position of the person(s) who produced the document,
- e. The name and organizational position of the person(s) who received a copy of the document, or to whom the document was disclosed; and
- f. The claimed grounds on which the document is being withheld and facts sufficient to show the basis for each claim of privilege.

4. If you object to any part of a request for documents and refuse to produce documents responsive to that part, state your objection and respond to the remaining portion of that request. If you object to the scope or time period of a request for documents, state your objection and respond to the request for documents for the scope or time period you believe is appropriate.

5. Please produce all documents in the order in which they are kept in the ordinary course of business, and in their original file folders, binders, covers or containers, or facsimile thereof.

6. Any document bearing any changes, including, but not limited to, markings, handwritten notation, or other differences, that are not a part of the original text, or any reproduction thereof, is to be considered a separate document for purposes of responding to the following document requests. English translations of partial translations of foreign language documents should also be considered separate documents.

7. If a requested document is in a language other than English, please produce both the original and any existing English translation thereof.

8. If any of the following requests for documents cannot be responded to in full after exercising due diligence to secure the requested documents, please so state and respond to the extent possible, specifying your inability to respond to the remainder and stating whatever information you have regarding, referring or relating to the unanswered portions. If your response is qualified in any particular manner, set forth the details of such qualification.

9. Please produce hard copies of electronic records or produce computerized information in an intelligible format with a description of the system from which it was derived sufficient to permit rendering the materials intelligible.

### **DOCUMENT REQUESTS**

#### **Request No.1:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Parallel Algorithms and Architectures" in the Electrical Engineering and Computer Science Department at Massachusetts Institute of Technology, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

#### **Request No. 2:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of a course titled "Advanced Algorithms" in the Electrical Engineering and Computer Science Department at Massachusetts Institute of Technology, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for the course.

#### **Request No. 3:**

All documents regarding, referring or relating to Dr. Marios Papaefthymiou's teaching of any course within the Electrical Engineering and Computer Science Department, or any other Department, at Massachusetts Institute of Technology, including but not limited to, course syllabi, handouts, outlines, digests, lecture notes, presentations, computer code, and demonstrative software and hardware created for any such course.

#### **Request No. 4:**

All documents regarding, referring or relating to theses authored by Dr. Marios Papaefthymiou, including but not limited to, MIT Laboratory for Computer Science Technical Reports TR-605 and TR-486, and any other technical bulletins or reports authored by Dr. Papaefthymious while he was a student at Massachusetts Institute of Technology.

# ATTACHMENT B

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
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12 SYNOPSYS, INC.,  
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14 Plaintiff,

15 vs.

16 RICOH COMPANY, LTD.,  
17

Defendant.

CASE NO. C03-02289-MJJ (EMC)

STIPULATED PROTECTIVE ORDER

18  
19 1. All Confidential Information produced or exchanged in the course of this litigation shall  
20 be used solely for the purpose of preparation and trial of this litigation and for no other purpose  
21 whatsoever, and shall not be disclosed to any person except in accordance with the terms hereof.

22 2. "Confidential Information," as used herein, means any information of any type, kind or  
23 character that is designated as "Confidential" by any of the supplying or receiving parties, whether it be  
24 a document, information contained in a document, information revealed during a deposition,  
25 information revealed in an interrogatory answer or otherwise. In designating information as  
26 "Confidential," a party will make such designation only as to that information that it in good faith  
27 believes contains "Confidential Information."

28 3. (a) "Confidential Information" includes, but is not limited to, (i) proprietary technical



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information and specifications, (ii) trade secrets (iii) confidential know-how, and (iv) proprietary  
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business and financial information and any other non-public information, the disclosure of which is  
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likely to have the effect of causing significant competitive harm to the disclosing party or party from  
which the information was obtained. Nothing in this paragraph shall be construed to limit the  
description of "Confidential Information" set forth in paragraph 2.

8 (b) Nothing shall be regarded as "Confidential Information" if it is information that:  
9 (i) is in the public domain at the time of disclosure, as evidenced by a written document;  
10 (ii) becomes part of the public domain through no fault of the other party, as evidenced  
11 by a written document;  
12 (iii) was in the receiving party's rightful and lawful possession at the time of disclosure,  
13 as evidenced by a written document; or  
14 (iv) is lawfully received by the receiving party from a third party at a later date without  
15 restriction as to disclosure, provided such third party has the right to make the disclosure to the  
16 receiving party.  
17

18 4. "Qualified Persons," as used herein means:  
19 (a) To the Court and its officers and staff, including court reporters;  
20 (b) Outside attorneys of record for the parties in this litigation and employees of such  
attorneys to whom it is necessary that the material be shown for purposes of this litigation;  
22 (c) Outside experts, consultants, advisors or investigators (collectively referred to  
23 hereafter as "experts") who have signed an undertaking pursuant to paragraph 5 but only after  
24 compliance with the provisions of paragraph 5 below;  
25 (d) To non-party support services including, but not limited to, court reporters, outside  
26 copy services, document imaging and database services, design services who have signed confidentiality  
27 agreements, jury consultants who have signed confidentiality agreements, mock jurors who have signed  
28 confidentiality agreements, and language translators who have signed confidentiality agreements

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(including support staff) as may be reasonably necessary in connection with the preparation or conduct  
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of this action;  
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5 (e) Anyone to whom the parties consent in writing; and

6 (f) If this Court so elects, any other person may be designated as a Qualified Person by  
order of this Court, after notice and opportunity to be heard to all parties.

8 5. Prior to the disclosure of any "Confidential Information" to any expert under Paragraph  
4(c), counsel for the Party seeking to make the disclosure shall: (i) deliver a copy of this Protective  
Order as entered to such person, explain its terms to such person, and secure the signature of such  
person on a written undertaking in the form attached hereto as Exhibit A, and (ii) transmit by facsimile  
and mail to counsel for the other Parties a copy of the signed Exhibit A, accompanied by a curriculum  
vitae, at least ten (10) calendar days before any "Confidential Information" designated under this  
Protective Order is to be disclosed to the signator. The curriculum vitae should identify the general  
area(s) of expertise of the expert, provide a brief job history, specify all employment, expert or  
consulting engagements by the expert within the past five (5) years, and state all present or prior  
relationships between the expert and any entity directly or indirectly involved in this litigation or  
providing an indemnity to any such entity, its subsidiaries or its affiliates. Any Party may object to the  
proposed disclosure to an expert within the ten (10) calendar day period following the transmittal of  
Exhibit A and the curriculum vitae, by stating specifically in writing the reasons why the Party believes  
such expert should not receive designated "Confidential Information." If during that ten (10) calendar  
day period a Party makes such a written objection, there shall be no disclosure of "Confidential  
Information" to the expert absent mutual agreement of the Parties, waiver of the objection as stated  
below, or further order of the Court. After a Party objects to the proposed disclosure to an expert, the  
objecting Party shall move, by noticed motion or by ex parte application, for an order that disclosure not  
be made to such expert within five (5) business days following the date that the objection is made, or the  
Party's objection shall be deemed waived and disclosure may be made to the expert. The burden shall

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3 be on the objecting Party to establish why the disclosure should not be made. Each Party shall maintain  
4 a file of all such signed copies of Exhibit A. However, it shall not be necessary for administrative,  
5 secretarial or clerical personnel working for such Qualified Person to sign a written undertaking.

6 6. (a) Documents produced in this action may be designated by any party or parties as  
7 "Confidential" by marking each page of the document(s) with the designation "Confidential."

8 (b) In lieu of marking the original of a document, if the original is not produced, the  
9 designating party may mark the copies that are produced or exchanged. Originals shall be preserved for  
10 inspection.

11 (c) If the document is not in paper form, the producing person or entity shall use other  
12 such reasonable means as necessary to identify clearly the document or information as "Confidential."

13 7. Discovery responses or other litigation materials may be designated by any party or  
14 parties as "Confidential" by marking each page of the response with the designation "Confidential."

15 8. The designation of information disclosed during a deposition as "Confidential" shall be  
16 made either by a statement on the record at the deposition or within twenty (20) calendar days after  
17 receipt by counsel of a copy of the deposition transcript. Such designation will be applied to only those  
18 portions of the deposition transcript that include a specific question and response or series of questions  
19 and responses containing "Confidential Information." The deposition transcript shall be printed in  
20 consecutive pages (whether or not some pages are designated as "Confidential") with a marking on the  
21 cover of the deposition transcript indicating the "Confidential" designation contained therein. Unless  
22 previously designated otherwise, all deposition transcripts shall be treated as "Confidential" in their  
23 entirety prior to the end of the twenty (20) calendar day period following receipt by counsel of a copy of  
24 the deposition transcript.  
25

26 9. "Confidential Information" shall not be disclosed or made available by the receiving  
27 party to persons other than Qualified Persons except that nothing herein is intended to prevent  
28 individuals who are in-house counsel or a member of the professional legal department of the Parties

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3 from having access to pleadings, briefs and exhibits or declarations filed with the Court and expert  
4 reports, including exhibits that are designated as "Confidential."

5 10. (a) Documents to be inspected shall be treated as "Confidential" although such  
6 documents need not be marked as "Confidential" prior to inspection. At the time of copying for the  
7 receiving parties, any documents containing "Confidential Information" shall be stamped prominently  
8 "Confidential" by the producing party.

9 (b) Nothing herein shall prevent disclosure beyond the terms of this Order if each party  
10 designating the information as "Confidential" consents to such disclosure or if the Court, after notice to  
11 all effected parties, orders such disclosures. Nothing herein shall prevent any counsel of record from  
12 utilizing "Confidential Information" in the examination or cross-examination of any person who is  
13 indicated on the document as being an author, source or recipient of the "Confidential Information,"  
14 irrespective of which party produced such information. Nothing herein shall prevent any counsel of  
15 record from utilizing "Confidential Information" in the examination or cross-examination of any person  
16 who is a current or former officer, director or employee of the party so designating the information as  
17 "Confidential" or of the party that produced the information or of a related entity.  
18

19 11. If a party inadvertently discloses any document or thing containing information that it  
20 deems confidential without designating it as "Confidential," the disclosing party shall promptly upon  
21 discovery of such inadvertent disclosure inform the receiving party in writing, and the receiving party  
22 and all Qualified Persons possessing such information shall thereafter treat the information as  
23 "Confidential" under this Order. To the extent such information may have been disclosed to persons  
24 other than Qualified Persons described in this document, the receiving party shall make every  
25 reasonable effort to retrieve the information promptly from such persons and to avoid any further  
26 disclosure to and by such persons.  
27

28 12. A party shall not be obligated to challenge the propriety of a designation as  
"Confidential" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto.

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Nor will the failure to object be construed as an admission that any particular "Confidential  
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Information" contains or reflects currently valuable trade secrets or confidential commercial  
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information. In the event that any party to this litigation disagrees at any stage of these proceedings  
with the designation by the designating party of any information as "Confidential," or the designation of  
any person as a Qualified Person, the parties shall first try to resolve such dispute in good faith on an  
informal basis, such as production of redacted copies. If the parties are unsuccessful in informally  
resolving any disputes regarding the designation of any document or information as "Confidential," the  
Court shall resolve all such disputes. It shall be the burden of the party making any designation to  
establish that the information so designated is "Confidential" within the meaning of this Protective  
Order. The "Confidential Information" that is the subject of the dispute shall be treated as originally  
designated pending resolution of the dispute.

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14 13. The parties may, by written stipulation filed and approved by the Court, amend this  
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Order, and any party may seek an order of this Court modifying this Protective Order. The parties agree  
16  
to meet and confer prior to seeking to modify this Protective Order. In addition, the Court may modify  
17  
this Protective Order in the interest of justice or otherwise at the Court's discretion.

18  
19 14. In the event a party wishes to use any "Confidential Information" in any affidavits,  
briefs, memoranda of law, or other papers filed with the Court in this litigation, such "Confidential  
Information" used therein shall be filed under seal with the Court. In addition to placing documents in a  
sealed envelope with instructions that the document is filed pursuant to the Stipulated Protective Order  
and that the envelope is not to be opened absent further order of the Court, the envelope should be  
labeled to identify the title of the case, the case number, and the title of the document.

20  
21 15. The Clerk of this Court is directed to maintain under seal all documents and transcripts of  
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deposition testimony and answers to interrogatories, admissions and other pleadings filed under seal  
23  
with the Court in this litigation that have been designated, in whole or in part, as "Confidential" by a  
24  
party to this action.

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3 16. If a Party intends to offer into evidence or otherwise disclose in open court any  
4 "Confidential Information" designated by another person or entity, counsel for such Party shall notify  
the designating person or entity that the Party intends to disclose "Confidential Information" in open  
court prior to the disclosure, so that the designating person or entity may confer with the Court  
concerning appropriate procedures for protecting its "Confidential Information."

8 17. In the event any person or party that has possession, custody, or control of any  
information designated as "Confidential" pursuant to the terms of this Protective Order receives a  
subpoena or other process or order to produce such information, such person or party shall notify by  
10 mail within five (5) business days of the Party's receipt of the request, the counsel for the party or  
11 persons claiming confidential treatment of the documents sought by such subpoenas or other process or  
12 order, shall furnish such counsel with a copy of said subpoena or other process or order, and shall  
13 cooperate with respect to any procedure sought to be pursued by the party whose interests may be  
14 affected. The party asserting the "Confidential" treatment shall have the burden of defending against  
15 such subpoena, process or order. The person or party receiving the subpoena or process or order shall  
16 be entitled to comply with it except: (a) to the extent the party asserting the "Confidential" treatment is  
17 successful in obtaining an order modifying or quashing it; and (b) in complying with the process or  
18 order shall, at a minimum, seek to obtain "Confidential" treatment of the "Confidential Information"  
before producing it in the other proceeding or action.

22 18. If the discovery process calls for the production of information that a Party or Non-Party  
23 does not wish to produce because the Party or Non-Party believes its disclosure would breach an  
24 agreement with another person or entity to maintain such information in confidence, the disclosing Party  
25 or Non-Party promptly shall give written notice to the other person or entity that its information is  
26 subject to discovery in this litigation, and shall provide such person or entity with a copy of this  
27 Protective Order. When such written notice is given to the person or entity, the disclosing Party or Non-  
28 Party will advise the potential receiving Party that such notice has been given. The person or entity



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3 whose information may be subject to discovery shall have ten (10) business days from receipt of the  
4 written notice in which to seek relief from the Court, if the person or entity so desires. If the ten (10)  
5 business days elapse without the person or entity seeking relief from the Court, the requested  
information shall be produced in accordance with the terms of this Protective Order.

7 19. In the event that additional persons or entities become Parties, none of such Parties'  
8 counsel, experts or consultants retained to assist said counsel, shall have access to "Confidential  
9 Information" produced by or obtained from any other producing person or entity until said Party has  
10 executed and filed with the Court its agreement to be fully bound by this Protective Order.

11 20. This Protective Order shall apply to the parties and any non-party from whom discovery  
12 may be sought and who desires protection for the discovery sought. Thus, any non-party requested or  
13 required to produce or disclose information in this proceeding, through subpoena or otherwise, may  
14 designate such information pursuant to the terms of this Protective Order.

15 21. (a) Nothing herein requires disclosure of information, documents or things which the  
16 disclosing entity contends is protected from disclosure by the attorney-client privilege or the work-  
17 product exception. Nothing herein shall preclude any party from moving this Court for an order  
18 directing the disclosure of such information, documents or things.

20 (b) In the event that any privileged attorney-client or work product documents or things  
21 are inadvertently produced for inspection and/or provided, the disclosing party shall identify such  
22 documents or things within five (5) days of when it discovers that the privileged materials were  
23 inadvertently produced for inspection and/or provided, and either (1) copies shall not be provided, or (2)  
24 if copies have already been provided, all copies in the receiving party's possession shall be promptly  
25 returned (and not relied upon) by the receiving party. Nothing in this paragraph shall prevent the  
26 receiving party from contending that the identified materials are not privileged, that the material was not  
27 inadvertently produced, or that privilege was waived for reasons other than mere inadvertent production  
28 of the material.

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3 22. Within ninety (90) days after conclusion of this litigation and any and all appeals thereof,  
4 any document and all reproductions of "Confidential" documents produced by a party that are in the  
5 possession of any Qualified Person shall be returned to the producing party or, with the consent of the  
6 producing party, destroyed. If destroyed, counsel for the receiving party shall certify to counsel for the  
7 producing party compliance with this paragraph within fourteen (14) calendar days of such destruction.  
8 Outside counsel for each party may maintain in its files one copy of all material produced as well as all  
9 material filed with or otherwise presented to the Court, deposition and trial transcripts, and work  
10 product (regardless of whether such materials contain or refer to "Confidential" materials). If counsel  
11 retains such materials, the materials which contain Confidential Information shall be accessible only by  
12 Qualified Persons defined in paragraph 4(b) above. As far as the provisions of any protective orders  
13 entered in this action restrict the communication and use of the documents produced thereunder, such  
14 orders shall continue to be binding after the conclusion of this litigation including any subsequent  
15 appeals or later proceedings, except that (a) there shall be no restriction on documents that are used as  
16 exhibits in Court unless such exhibits were filed under seal, and (b) a party may seek the written  
17 permission of the producing party or order of the Court with respect to dissolution or modification of  
18 such protective orders. The Court shall retain jurisdiction to enforce the performance of said obligations.

20  
21 23. (a) At the election of the Producing Party, a Receiving Party's access to a Producing  
22 Party's discoverable source code may be limited to inspection of the code at a secured facility provided  
23 by the Producing Party. Such inspection may be conducted only by persons identified in advance by the  
24 Receiving Party on a list of "Qualified Inspecting Personnel" which may include:

- 25 (1) the Receiving Party's Outside Counsel of record in this action; and  
26 (2) up to three Experts (as defined in this Order) of the Receiving Party to  
27 whom disclosure is reasonably necessary for this litigation and who have signed the  
28 "Agreement to Be Bound by Protective Order (Exhibit A) and who have been approved  
pursuant to the "Procedures for Approving Disclosure of 'CONFIDENTIAL' information



1 of Items to 'Experts'" as set forth in paragraph 5.

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3 (b) The following provisions relate to Synopsys' provision of access to the Source  
Code for versions of its commercial products:

4 (1) Synopsys will make available a closed room at its facility in Bethesda,  
5 Maryland for use by Ricoh's Qualified Inspecting Personnel. The room will be set aside  
6 for the exclusive use of Ricoh's Qualified Inspecting Personnel and will not be used by  
7 Synopsys or any other party when Ricoh's Qualified Inspecting Personnel are not present  
8 The room will be available for a minimum of twelve weeks. After twelve weeks, and  
9 after consultation with Ricoh, Synopsys may close the facility pursuant to the procedures  
10 described in paragraph 4 below. If the facility is closed, Synopsys agrees to make the  
11 source code available for inspection under similar procedures at another date prior to the  
12 close of expert discovery.

13 (2) Synopsys will equip the closed room with a private phone if a phone jack  
14 is already available in the room, a stand-alone, non-networked, computer and high-speed  
15 printer. The computer will be loaded with copies of the source code to be produced and  
16 utilities required to review the code. The source code shall include the code which is  
17 used by Synopsys and no notes, comments, or any segments shall be removed before  
18 being made available. The computer will be equipped with the text editors available in a  
standard Unix distribution, suitable for use in editing the source code. Synopsys will  
assist Ricoh in loading software that Ricoh may require for analysis of the source code.  
The computer shall also be loaded with a complete distribution of the Synopsys software  
that is fully operable and executable.

19 (3) Ricoh may print copies of a reasonable subset of the source code for the  
20 Synopsys products at issue. Any printing done at the secure facility will be done  
21 exclusively on paper supplied by Synopsys. Synopsys may elect to place preprinted  
22 confidential designations on the margins of the paper. Ricoh's Qualified Inspecting  
23 Personnel are not to bring blank paper into the closed room except for the purpose of  
24 making handwritten notes. Synopsys will initially supply Ricoh with 5,000 pages of  
25 paper for use with the printer. This figure is based on the estimate that 5,000 pages  
26 should be sufficient to print approximately 5% of the source code for Design Compiler. If  
27 at any time, Ricoh believes that additional printing and paper is required, Ricoh may  
28 submit additional requests for paper to Synopsys with a general statement of the basis of  
the request. Synopsys will respond within one week to any such request. If the parties

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3 are unable to come to agreement after conferral, the matter may be presented to the  
4 Court. In evaluating requests for paper, the relevant standard to be applied is that Ricoh  
5 should be allowed to print hardcopies of a reasonable subset of the Synopsys source code  
6 and that what is reasonable shall be evaluated in light of relevance of the code to Ricoh's  
7 allegations and Synopsys' interest in preventing release in hardcopy of more than a  
8 fraction of its source code.

9 (4) Ricoh will be permitted to send individuals from the list of Qualified  
10 Inspecting Personnel to participate in and/or witness the closing of the secured facility.  
11 Before closing of the facility, Ricoh's representatives may provide a list of procedures  
12 that they wish to perform to ensure that any electronic record of their use of the machine  
13 has been erased.

14 (c) The Receiving Party will provide the Producing Party with a copy of its list of  
15 "Qualified Inspecting Personnel" no later than 5 business days before any person on the list attempts to  
16 access the secured facility. The Receiving Party may revise the list to add or remove individuals,  
17 provided that no more than a total of three Experts are ever provided with access to the source code  
18 during the entire course of the litigation absent an agreement by the parties or a Court Order to expand  
19 this number.

20 (d) Any notes taken or any other information created by Outside Counsel or the  
21 experts of the Receiving Party at or based on any inspection of the source code shall be treated as  
22 "CONFIDENTIAL" under this Protective Order.

23 24. This Order shall not bar any attorney herein in the course of rendering advice to his client  
24 with respect to this litigation from conveying to any party client his evaluation in a general way of  
25 "Confidential Information" produced or exchanged herein; provided, however, that in rendering such  
26 advice and otherwise communicating with his client, the attorney shall not disclose the specific contents  
27 of any "Confidential Information" produced by another party herein, which disclosure would be contrary  
28 to the terms of this Protective Order.

25 25. The Court shall retain jurisdiction to enforce the terms of this order for six (6) months  
26 after the final termination of this action.

27 Dated: March 23, 2004

HOWREY SIMON ARNOLD & WHITE, LLP

28

/s/ Christopher L. Kelley  
Teresa M. Corbin, Esq.

1  
2 Christopher Kelley, Esq.  
3 Erik K. Moller, Esq.  
4 Attorneys for Plaintiff SYNOPSYS, INC.  
5 301 Ravenswood Avenue  
6 Menlo Park, CA 94025  
7 Telephone: (650) 463-8100  
8 Facsimile: (650) 463-8400  
9  
10 Dated: March 23, 2004  
11 DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP  
12  
13 /s/ Kenneth W. Brothers  
14 Kenneth W. Brothers, Esq. (*pro hac vice*)  
15 Attorneys for Defendant RICOH COMPANY, LTD.  
16 2101 L Street NW  
17 Washington, DC 20037  
18 Telephone: (202) 785-9700  
19 Facsimile: (202) 887-0689  
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**ORDER**

**SO ORDERED** this 24th day of March, 2004.

/s/  
Magistrate Judge Edward M. Chen



## Brothers, Kenneth

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**From:** Andelman, Ethan [AndelmanE@Howrey.com]  
**Sent:** Monday, August 14, 2006 8:28 PM  
**To:** Brothers, Kenneth; DeMory, Denise; Fink, Jacky; Su, Henry  
**Subject:** RE: 08.14.06 De Mory Ltr to Brothers re Papaefthymiou Documents

Ken --

Your objections are duly noted (though baseless). You have no standing to object to the issuance of these third-party subpoenas, and we will not withdraw them. There is no need for any motion at this time; your sole remedy is to object to the introduction into evidence of any materials obtained, which can (and should) be done through a motion in limine. For this reason, and the fact that this week is crammed with tasks in this case, we will not be available to meet and confer on this issue until next Monday.

--Ethan

---

**From:** Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
**Sent:** Monday, August 14, 2006 3:35 PM  
**To:** DeMory, Denise; Andelman, Ethan; Fink, Jacky; Su, Henry  
**Subject:** RE: 08.14.06 De Mory Ltr to Brothers re Papaefthymiou Documents

Denise, Ethan, Jacky and Henry:

We object to the issuance of these subpoenas. They are untimely, especially since you made specific requests regarding Dr. Papaefthymiou's documents prior to the deposition, and we provided you with all documents in his possession, and you have completed the deposition of Dr. Papaefthymiou. We note that you have refused to produce similar documents relating to defendants' experts. We object to your attempt to extend discovery and create more delays. These subpoenas should be withdrawn immediately. If you decline to do so, please advise when one of you will be available for an immediate meet and confer so we can promptly present the issue to Judge Chen.

Regards, Ken

Ken Brothers  
Dickstein Shapiro LLP

---

**From:** Kasenenko, Peter [mailto:KasenenkoP@Howrey.com]  
**Sent:** Monday, August 14, 2006 3:04 PM  
**To:** Allen, DeAnna; McCandless, Douglas; Meilman, Edward; Oliver, Eric; Hoffman, Gary; Jeffrey Demain, Esq.; Brothers, Kenneth; Weinstein, Michael; Barbisch, Rebecca; Seyoum, Solomon  
**Subject:** 08.14.06 De Mory Ltr to Brothers re Papaefthymiou Documents

Please see the attached.

<<08.14.06 De Mory Ltr to Brothers re Papaefthymiou Docs.pdf>>

**Peter L. Kasenenko**  
Secretary to Denise M. De Mory

8/15/2006

Rick C. Chang, and Jaclyn C. Fink

**HOWREY LLP**

525 Market Street, Suite 3600

San Francisco, CA 94105

Direct Dial: 415.848.4976

Facsimile: 415.848.4999

E-mail: KasenenkoP@Howrey.com

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8/15/2006